

**A Study of the Implementation of the Constitution and the Quality of  
Governance in Kurdistan**

Salih Fatah

A thesis submitted in partial fulfilment of the requirements of Liverpool John Moores  
University for the degree of Doctor of Philosophy

June 2016



## Declaration/Statements

### Declaration

This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

Salih Fatah

Signed:



Date: 06/ 06 /2016

### Statements

The thesis is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references. A bibliography is included.

I hereby give consent for my thesis, if accepted, to be available for photocopying and for inter-library loan, and for the title and summary to be made available to outside organisations.

Salih Fatah

Signed:



Date: 06/ 06 /2016



## **Abstract**

As the first study focusing on the implementation of the constitutions and quality of government (QoG) in Kurdistan from a practical point of view, this thesis examines the question why the Kurdistan Regional Government (KRG) fails to deliver the constitutions in a way that strengthens its democracy and produces a good QoG. From analyses of the data gleaned from 41 semi-structured interviews the thesis identifies the main factors that affect the implementation of the constitutions and QoG with particular reference to the 2005 Iraqi constitution and the Kurdistan draft constitution of 2009. The study also outlines the reform process in the Kurdistan Region and explains how a system of political checks and balances in a democratic society can improve QoG and democracy.

This research considers the main obstacle to the establishment of a good and democratic government in the region to be political influence on all state institutions, including the executive, parliament, the judiciary, military forces, police and security services, and use of these institutions for political and personal benefits. Other obstacles identified are a reliance on oil products, a culture of corruption, poor administration, a low-quality legal system, Kurdish disputes with the central Iraqi government, the absence of a clear, enforceable regional constitution, the lack of experience with democracy and, more importantly, the absence of political will for reform by the ruling parties. In this light, the study recommends strengthening the state institutions, reducing political influence over them and establishing a process of political checks and balances – as exists in democratic states – as extremely important to improving QoG. However, it also argues that these aims will not be achieved without a genuine political will for reform.

Thus, this thesis stands as the first detailed research in this field that qualitatively investigates the effect of the implementation of democratic constitutions in a region that has gone through conflict and violence; attempts to set out the factors that form obstacles to such implementation; and puts forward recommendations for the improvement of QoG in the light of the constitutions. This study therefore, can help the government and politicians to take action in terms of reforms to improve QoG in the region and develop

the democratic process. This research will also contribute to future study on a similar theme.

Dedicated to my affectionate mother and my beloved wife





## Acknowledgements

I have always been conscious of my debt to many people in writing this piece of work. There are a number of people I need to thank for their help in the production of this thesis, both in the UK and in Kurdistan. First, I wish to express my sincere thanks to all those who played important roles in producing this work. In particular, I would like to thank my supervisors, Dr. Gary Wilson and Dr. Nirmala Pillay, for their insightful comments and constructive suggestions throughout my research. Their friendship and support went beyond their duties as my supervisors. This thesis would not have been possible without their constant encouragement and support.

I would like to extend special thanks to my previous supervisors, professors Paul Joyce and Alan Doig, for their useful academic comments and suggestions in several sessions and workshops during the first two years of my study.

I would like to thank those who helped and guided me to valuable material about governance, corruption and constitutions and all those who cooperated with me during my fieldwork in Kurdistan. In particular, I thank all the interviewees who participated in my research, the members of parliament,<sup>1</sup> politicians, judges, academics and officials in Kurdistan. Many thanks for their time and efforts.

I am deeply thankful to my wife for her constant support, understanding and patience, and also for her good humour in the face of foregone weekends and holidays due to my study throughout the years.

---

<sup>1</sup> In this thesis, “MP” is used as an abbreviation for members of the Iraqi Kurdistan Parliament as well as of other parliaments, e.g. the UK House of Commons.

Finally, I am very grateful to my mother for her encouragement, love and support from the moment I started my studies to the completion of this research, and her constructive criticism throughout my life.



# Contents

Abstract .....	iv
Acknowledgements .....	viii
List of Abbreviations .....	xv
List of Figures .....	xvii
Chapter 1 .....	1
Introduction .....	1
<b>Background on Kurdistan</b> .....	1
<i>Political background of Kurdistan</i> .....	4
<i>Political domination of freedoms (freedom of expression and association)</i> .....	14
<i>Funding of political parties</i> .....	27
<i>Absence of a strong political opposition</i> .....	28
<b>Nature of Inquiry</b> .....	33
<b>Motivation for the Study</b> .....	41
<b>Significance of the Study</b> .....	43
<b>Research Objectives</b> .....	43
Chapter 2 .....	49
Research Design and Methodology .....	49
<b>Qualitative vs Quantitative Methods: Why This Study Uses the Former</b> .....	49
Access to Interviewees and Sampling Method .....	52
Limitations of Samples .....	58
<b>Triangulation of Methods and Perspectives</b> .....	60
<i>Primary sources</i> .....	61
<i>Secondary sources</i> .....	61
<i>Types of interview</i> .....	62
<i>Interview questions and procedure</i> .....	64
<b>Ethical considerations and challenges</b> .....	66
<b>Validity and Reliability of the Research</b> .....	69
<b>Research Problems and Limitations</b> .....	70
<b>Conceptual Framework of the Research</b> .....	72
Chapter 3 .....	74
Summary of Emerging Themes .....	74
Elements That Support the Emerging Themes .....	74
Coding of Data .....	74
Process of Coding and Themes .....	76
Key Findings from the Interviews .....	76
Triangulation .....	78
Research Framework .....	79
Chapter 4 .....	80
Functions of the Constitution .....	80
<b>The Rule of Law</b> .....	82
<i>What is the rule of law?</i> .....	82

<b>Rule of Law in Iraqi Kurdistan .....</b>	<b>87</b>
<b>The Division of Power as the Most Significant Role of a Constitution .....</b>	<b>91</b>
Separation of Powers and a System of Checks and Balances .....	94
<b>Federal System .....</b>	<b>96</b>
 Chapter 5 .....	 107
 The Concepts of State, Democracy and QoG .....	 107
<i>The State</i> .....	107
What is “the state”?	107
What is the difference between state and government?	108
Functions of the state	109
<i>Democracy</i> .....	111
What is a democracy?	111
Classical democracy .....	112
Republicanism .....	113
People’s democracy .....	113
Liberal democracy .....	114
Democratic constitutions and Islam	115
Different approaches to democracy	122
The minimalist theory .....	122
The maximalist model .....	124
<i>Quality of Governance</i> .....	126
What is quality of governance or “good governance”?	126
What makes governance good or bad?	130
Measures of quality of governance	133
1. Accountability and its relationship with democracy and QoG .....	133
2. Transparency and its relationship with democracy and QoG .....	135
3. Protection of fundamental human rights .....	138
4. Upholding the rule of law .....	142
5. Providing public services .....	142
Democracy and QoG	146
The “input” side of democracy .....	150
The “output” side of democracy .....	151
<i>Institutions for implementing the constitutions</i> .....	154
 Chapter 6 .....	 164
 Corruption .....	 164
Introduction .....	164
Definition .....	164
Nature of Corruption .....	165
Overview of Corruption in Kurdistan .....	166
Existing Laws and Regulations on Corruption .....	170
Forms of corruption .....	173
Corruption in the oil industry	174
Corruption in the recruitment and retirement system	174
Corruption in land distribution	182
Corruption in government contracts and tenders	183

Other forms of corruption	184
<i>Which officials are more corrupt?</i>	185
<i>Is corruption systematic and organised?</i>	187
<i>To what extent does corruption exist in Kurdistan?</i>	188
<i>Circle of corruption</i>	192
Chapter 7	197
Factors affecting QoG	197
<b>Natural Resources</b>	198
<i>Kurdistan: an oil-rich region</i>	201
<i>Legal argument over oil and gas between the KRG and the Iraqi government</i>	202
<b>Culture and Social Structure</b>	210
<b>Administrative System and the Quality of Government Institutions</b>	214
<b>Size of Government and Two Administrations</b>	221
<b>Legal System and the Rule of Law</b>	224
<i>The judiciary</i>	225
<b>Kurdish Disputes with Iraqi Central Government</b>	234
<b>Lack of a Clear, Enforceable Regional Constitution</b>	237
<b>Length of Exposure to and Level of Democracy, and their Effect on QoG</b>	239
<b>Other Factors: Economic Issues, Trade Openness, Education, Training of Public-sector Staff</b>	246
Chapter 8	253
Reform	253
<b>What Type of Reform is Required?</b>	253
<i>The political system</i>	254
<i>Reform in government institutions</i>	256
<i>Institutions of accountable governance</i>	257
Parliament	257
Anti-corruption organisations and state audit	259
Civil society	259
<i>Police, security services and military forces</i>	263
<b>Combating Corruption as Part of the Reform Process</b>	264
<b>Inadequate Checks and Balances</b>	268
Chapter 9	277
Conclusions, Contributions and Recommendations	277
Introduction	277
Summary and Findings	278
Reform and Modern Forms of Check and Balances	297
Economic problems	302
The war with ISIS	304
The future of disputed areas	304
Improving democracy in the region	305
Contribution of the Study	305
Recommendations for Future Research	307
Appendices	310
Appendix I	310
List of Interviewees	310
Appendix II	312
Main interview questions	312
Appendix III	319
Specific interview questions	319

<i>Appendix IV</i> .....	323
<i>Transcript: Interview 5</i> .....	323
 Bibliography .....	 331

## **List of Abbreviations**

CoI	Commission of Integrity (Iraq)
CPA	Coalition Provisional Authority
CPI	Corruption Perception Index
DNO	Distribution Network Operator
FSC	Federal Supreme Court
GDP	Gross Domestic Product
GM	Movement for Change ( <i>Gorran</i> )
HRW	Human Rights Watch
IDEA	International Institute for Democracy and Electoral Assistance
KDP	Kurdistan Democratic Party
KIG	Kurdistan Islamic Group
KIU	Kurdistan Islamic Union
KJC	Kurdistan Judicial Council
KRG	Kurdistan Regional Government
KRRC	Kurdistan Region Reform Commission
MNR	Ministry of Natural Resources
MP	Member of Parliament
PUK	Patriotic Union of Kurdistan
QoG	Quality of governance





## List of Figures

Figure 1: Political monopolisation of power in Kurdistan.....	32
Figure 3: Interviewees by profession .....	54
Figure 4: Gender of interviewees .....	55
Figure 5: Age of interviewees (years).....	55
Figure 6: Interviewees' level of educational qualification.....	56
Figure 7: Political background of interviewees .....	57
Figure 8: Triangulation of the research data.....	78
Figure 9: Framework of the research process .....	79
Figure 10: The circle of corruption in Kurdistan .....	195
Figure 11: How production sharing contracts (PSCs) work .....	208
Figure 12: Relationship between the level of democracy and quality of governance (J-shape) .....	240
Figure 13: Length of exposure and level of democracy and their effect on QoG.....	246
Figure 14: The theory of checks and balances .....	276
Figure 15: Conceptual framework for the interrelationship between application of constitutions and QoG.....	290

# **Chapter 1**

## **Introduction**

### **Background on Kurdistan**

The constitutional model in Iraqi Kurdistan and the political system it sets out is often said to be unique. Some aspects of it indeed are, but others have similarities elsewhere in the Middle East, so it is better to simply say that the situation in Kurdistan is unusual, rather than unique. It is therefore necessary, prior to studying the implementation of the constitution and the quality of governance (QoG) in Kurdistan, to study the constitutions of Kurdistan and Iraq, and the political background of the Kurdistan state in order to find an answer to the main question of this thesis: “why did the Kurdistan Regional Government (KRG) fail to deliver the constitution in a way that enables an acceptable QoG in Kurdistan?”.

Since World War I, Kurds have been persecuted by the various regimes in Iraq. Kurdish freedom fighters (Peshmerga) have resisted these regimes and have a history of striving and fighting against the enemies of the Kurdish people, but the national and international environment was not suitable for Kurds to achieve their national rights and the Peshmerga continued its resistance in Kurdish rural areas and mountains. After the First Gulf War in 1991, Iraqi Kurds – encouraged by the United States – rose up against Saddam Hussein’s regime and the Peshmerga and local people successfully cleared three Kurdish provinces (Erbil, Sulaimaniyah and Dohuk) of Iraqi troops. The Iraqi government responded to the Kurdish rebellion immediately and within weeks the Iraqi military suppressed the uprising and regained control of the entire region (Feldman and Martinez, 2006, p.886). Over one million Kurds fled to Iran and Turkey, causing a humanitarian crisis (Gunter and Yavuz, 2005). The UN Security Council condemned the repression of the Iraqi Kurds in Resolution 688; coalition forces established a no-fly zone at the 36th parallel in the north of Iraq for their protection and the Kurdish refugees returned home. A few months later, the Iraqi troops and its administration withdrew

from the region, and imposed a regional blockade on Kurdistan (UK Ministry of Defence, 2009).

The absence of the Iraqi government within the region provided the opportunity for a general election to be held in May 1992 to select a president and members for a parliament of Kurdistan. Kurdistan's two main political parties – the Kurdistan Democratic Party (KDP), led by Massoud Barzani, and the Patriotic Union of Kurdistan (PUK), led by Jalal Talabani – won the great majority of votes; consequently, they established the first KRG and Erbil became the capital of the Kurdistan Region (UK Home Office, 2011).

In this thesis it is important to review how the KRG was initially shaped under the political leadership of the two men (Talabani and Barzani) in order to understand the complicated nature of governance in the region. This is important because these political parties formed the first Kurdish government and jointly formed the KRG for over two decades (Munro Robb, 2010).

From the beginning of the first regional government in Kurdistan all the political parties agreed on a democratic political system based on political plurality and regular elections. Between 1992 and 2005, the Kurds ruled the region independently of Iraq as the Iraqi regime withdrew its administration and troops from the region and all administration and political connections between the two were interrupted. Furthermore, the KRG did not follow the Iraqi constitution, which it considered a constitution of dictatorship (Feldman and Martinez, 2006, pp.888–918). During this period, although the KRG was not legally bound to the Iraqi constitution to regulate its political system, the Kurdish political parties, in particular the PUK and KDP, said that free and fair elections had been held in the region. However, regular elections were only held after 2005 (UK Home Office, 2011). Notwithstanding these claims and despite there being multiple political parties, the cabinet was almost made up of (50–50) representatives from only the two traditional parties, the KDP and PUK (Qadr, 2007, pp.4–17).

The ruling parties could not overcome the defects of political influence in the previous system of governance, in particular the symptoms of dictatorship and political domination. The structure of administration systems remained as they had been. The

Kurdish political parties failed to introduce a modern system of governance that was accountable and transparent. The tradition of cheating in elections, misuse of public office and public resources for political advantage, and violent behaviour continued in the region (Katzman, 2014).

Not long after the establishment of the first Kurdish government, tensions between the KDP and PUK grew over the sharing of revenues and authority and their alliance broke down as a consequence. This led to fighting between them in 1994, with thousands killed and displaced as a result. The dispute created a partition of territory between the PUK and KDP, with the PUK controlling the south from its base in Sulaimaniyah, and the KDP controlling the north from Erbil and Dohuk. In 1998, under US influence, the two parties entered into a peace agreement in Washington ending the fighting between them, and agreed to form a unified government and share power and governmental responsibility in the KRG (Gray, 2012, p.18).

Iraqi Kurds now control an area of almost 15,000 square miles in northern Iraq with a population of 5.2 million (of which Erbil 1.7 million, Sulaimaniyah 2.3 million and Dohuk 1.2 million) (KRG official website).<sup>2</sup> In addition, there are other Kurdish areas – such as the oil-rich city of Kirkuk – which are disputed between the central government and the KRG; these disputes over land have been a source of tension ever since the liberation of Iraq in 2003. A referendum on whether the Kirkuk Governorate should join the KRG was originally scheduled for December 2007 (Gray, 2012, p.4). However, this has been put on hold and is still awaited (KRG official website).<sup>3</sup>

---

2 Available at <http://cabinet.gov.krd/?l=12> [Accessed 10th November, 2013]

The Kurdish Peshmerga recently reclaimed most of the other areas considered as Kurdish lands lost to ISIS in August 2014, including Kirkuk, Khanaqeen, Makhmoor and Dubis. Al-Monitor News. Available from: <http://www.al-monitor.com/pulse/originals/2015/02/iraq-kurdistan-peshmerga-wait-islamic-state.html#ixzz3nbK45YM> [Accessed 12th September, 2015]

3 According to the KRG's official website, at the date of writing (21st March 2016) this has been put on hold.

On 9th June 2014 the Islamic State of Iraq and Syria (ISIS)<sup>4</sup> took control of Mosul and a large area surrounding the city. Hundreds of people were killed and around 500,000 fled the city. Following the withdrawal of Iraqi forces from Mosul and surrounding areas, Kurdish Peshmerga forces<sup>5</sup> controlled most of the disputed areas that were previously outside KRG administration, including Kirkuk city (Hawramy and Beaumont, 2014). Although the Kurds have been able to defeat the ISIS forces along its frontline – approximately 1,035 km long – this war increasingly affects the stability of the region as ISIS has expanded the scope of its activities, in both Iraq and Syria.<sup>6</sup> It therefore remains a big threat to Kurdistan and the whole of Iraq. The impact of the war with ISIS is much greater than the actual violence and security issues as it reduces the KRG's ability to implement the constitution and democratisation process and to improve QoG (Cordesman and Khazai, 2014, pp.50–53). This is particularly the case where the KRG has failed to establish an effective governance and economic system over the past two decades, which is essential for a proper response to terrorist attacks and the security crisis. This could explain the impact ISIS advances may have on the KRG's ability to deliver on the constitution and QoG. On the other hand, this research argues that any proposals for reform are dependent on ISIS failing to increase its dominance in the region. The instability and violence further emphasises the urgent need to build a better governance structure based on the principles of the constitutions that can bring real meaning to governance and serve the interests of the people.

### ***Political background of Kurdistan***

Before studying the defects in the state institutions and the effect of implementation of the constitutions on QoG, it is necessary to provide the historical and political

---

4 The Islamic State of Iraq and Syria (ISIS) emerged as a militant Islamic group formed out of al-Qaeda in Iraq from the turmoil engulfing Iraq after the 2003 invasion. It became powerful, particularly after the Syrian uprising and its activities against the Syrian regime. ISIS is led by Abu Bakr al-Baghdadi. (Staff writer, Al Arabiya News. 16th June 2014. Available from: <http://english.alarabiya.net/en/perspective/features/2014/06/16/How-ISIS-stormed-Iraq-A-chronology-of-the-militant-offensive-.html>) [Accessed 25th January, 2015]

5 “Peshmerga” in the Kurdish language means “one who confronts death”. The Kurdish Peshmerga are the military forces of the KRG, managed by the Ministry of Peshmerga Affairs. The overall formal head of the Peshmerga is the President of Iraqi Kurdistan.

6 <http://www.washingtoninstitute.org/policy-analysis/view/iraqs-crisis-and-the-krq>

background to the change of regime in Kurdistan that took place in 1991 from a dictatorship to a democracy. In particular, we need to examine the characteristics of Kurdistan's political nature, as these particular features shaped the course and form of the transition that followed.

Following the Kurdish uprising in 1991, Kurds governed themselves under international protection within a so-called "no-fly zone".<sup>7</sup> Kurdistan never fully integrated into Iraq. Saddam's regime withdrew Iraqi military forces as well as its administrations in the three Kurdish cities of Erbil, Duhok and Sulaimaniyah. To fill the administrative vacuum, the Kurdish political parties established a local administration in these regions and established the Kurdistan National Assembly (KNA) in July 1992 following a general election in May 1992, which led to the establishment of the first Kurdish regional government in July 1992 (KRG official website).

Among the special features of the Kurdistan political system created after the 1991 uprising was inclusiveness. The Kurds rose up against the government of Iraq; as a result, the Iraqi government withdrew all public institutions from Kurdistan. With the establishment of a regional government, there was no formal relationship between Iraq and Kurdistan between 1991 and 2003. The ruling political parties had a history of striving and fighting against the enemies of the Kurdish people; they sacrificed their

---

7 "The Iraqi no-fly-zones were established in April 1991 (north) and August 1992 (south) as a coalition (US, UK and France) initiative in support of UNSCR 688 demanding an immediate end to Saddam's brutal repression of Kurds in [the] north and Shias in [the] south. Iraqi aircraft were forbidden from flying inside the zones. This was enforced by US, UK and French aircraft patrols.

Saddam's internal security organisations continued to persecute all opponents of the regime on the ground but coalition aircraft helped to protect the interests of these minorities by ensuring he could not use his airforce [sic] to mount all-out assaults. While supervising the no-fly zones, coalition aircraft also collected tactical reconnaissance to help monitor Saddam's compliance with UNSCR 688. On 16–19 December 1998, the US and UK took military action against Iraq under Operation Desert Fox on the basis of Iraq's non-compliance with UNSCOM and the growing concern that Iraq was continuing to develop its chemical and biological weapons capability. From that point on, Iraq no longer recognised the no-fly zones and attacks on coalition aircraft became a common occurrence, although no coalition aircraft were ever shot down by Iraqi forces. Coalition aircraft responded by targeted attacks on elements of Iraq's Integrated Air Defence System. No-fly zone operations ceased in March 2003." UK Ministry of Defence, 2009. Available at: <http://www.iraqinquiry.org.uk/media/38010/mod-no-fly-zone-r1.pdf> [Accessed on 12th September, 2015]

blood and money at the beginning of the uprising. During this period, they were loved and supported by the majority of the Kurdish people for the freedom they had achieved. The uprising's main slogans were "democracy" and "freedom". From their creation, the two main political parties in Kurdistan promised to endorse the principles of democracy in practice (Voller, 2012, p.136). In addition, to avoid gaining automatic legitimacy from the uprising, the Kurdish parties decided to establish democracy and conduct general elections in the region. For Kurdistan as a post-dictatorship region, the holding of frequent elections is very significant in providing the new regime with not only democratic legitimacy but also the possibility of renewing the political elite, and avoiding internal conflicts and international criticism. The question here is whether the main political parties managed to adopt and promote the democratic principles, including freedom of expression, the rule of law, equality, accountability, fair, free and frequent elections, and political tolerance (Debusmann, 2007; Hitchens, 2007).

One of the best definitions of democracy is that given by Dahl (1971, p.2), which states that a democracy is characterised by a series of requisites including equal competence conditions among the political elites. According to this definition, democracy includes political competitions, clean, transparent and periodic elections, alternation in power of plural political parties, and the guarantee of primary rights such as freedom of expression and association, and the right to fair trials. As illustrated in Chapter 4, both the Iraqi and Kurdistan constitutions confirmed that the Kurdistan Region is supposed to be a democratic state ruled by a mixed parliamentary–presidential system that truly represents the people and works for the protection of the interests of people in the region and upholds fundamental human rights. However, some writers argue that, although there have been free and fair elections, the region continues to face political, economic and social obstacles that have had a negative impact on the democratisation process (van den Berg, 2010, p.35). These obstacles have together created a political culture of democratic fuzziness where democratic patterns have been mixed with undemocratic ones. Such types of regimes may be found in electoral democracies where citizens have only limited choice to participate as the elections are influenced by political domination, clientelism, human rights abuses and instability – in particular where unelected institutions, such as the military, continue to influence politics (Pipes, 1989, p.23–7). Scholars on democratisation have used different names to describe this type of electoral democracy, such as manipulated democracy, tutelary democracy, fragile democracy,



illiberal democracy, poor democracy, empty democracy, low-intensity democracy, limited democracy, oligarchic democracy, hybrid democracy, hollow democracy and frozen democracy (Schedler, 2002, p.37; Levitsky and Way, 2002, pp.51–66). This proliferation of names has led to variations of the meaning of democracy in order to grasp the new, different forms of democracy that are practised in some countries. Studying democracy in practice in the Kurdistan Region for the past two decades gives an indication that, among the various approaches to democracy, a narrow approach has been practised – even more limited than the narrow definition proposed by Huntington, a supporter of minimalist democracy – suggesting that democracy could include open, fair and free elections (Qadr, 2007, p.23).

The uprising and the creation of the first Kurdish government by the revolutionary parties was a time of rapid change in Kurdistan, with a new government and parliament being established for the first time (Voller, 2012, pp.152–3). The KDP and PUK became the ruling parties and formed the two pillars of the political system. The two main parties became the centre of all political and institutional life and enjoyed the full privileges that contributed to the consolidation of the regime. All government activities were concentrated within the ruling parties' elite. A KIG politician (interviewee 41) stated that

In 1991 our people rose up against the dictatorship and threw it out. The ruling parties were in mountains at the time; they participated in the uprising and consider themselves as owners of what has been achieved. Therefore, after they established the first government in 1992, they wanted to be privileged, they did not accept criticism and did not want anyone to question them because they said that they had fought for freedom and achieved freedom, so they demanded rewards for what they had achieved.

One of the most serious mistakes made by Kurds when they established their first government was that most positions in government institutions were filled by members of the political forces who had participated in the uprising and guerrilla fighting against the Iraqi regime. Through these members, the ruling political parties (the KDP and the PUK) had the opportunity to control and intervene in every part of government – police, military forces, parliament, various government ministries, the health service and to some extent the judiciary – and use them to benefit their leaders and, as a result, state institutions had generally not been able to fulfil their functions effectively (academic, interviewee 31). As in the case of post-revolution Mexico, instead of evolving towards

military dictatorship as had occurred in other countries, the Kurdistan revolution advanced from pure military dictatorship to pure party rule (Katzman, 2010). One of the big issues with politicians in Kurdistan is that the region lacks political leaders with the qualities described by Masciulli and Knight (2009, p.9): to be good, effective and ethical in order to bring about the desired ends. Throughout the interviews, a majority of interviewees agreed that the leaders of the two major political parties have dominated all state institutions through the control of the state's financial resources, which they utilise for their own interests. One KIU MP (interviewee 13) suggested that this was the main cause of corruption – which makes it very difficult to overcome.

Sidiq (2011) explains the effect of political domination between 1991 and 2003 on QoG, arguing that the ruling parties in Kurdistan during that period controlled most of the state institutions and obliged them to work under their influence. For example, the political parties controlled the KRG's revenue, and the public and even ministers were not aware of the size of the budget because it was entirely controlled by the KDP and PUK leaders, who used all the money for themselves and their political parties. They decided how much of the budget should be given to the government. This dark side of Kurdistan's first experience of self-administration has been described by some commentators as the main cause of the state's failure to establish a truly democratic system (Karim, 2013).

Huntington notes that a successful revolution requires the creation of a new political system (1968). Instead, in Kurdistan, the revolution created a regime based on the predominance of the parties in power over other parties. The revolution created a rule by political parties that controlled and intervened in every single aspect of government, parliament and, to some extent, the judiciary (Voller, 2012, pp.25–7). One KIU MP (interviewee 13) said that “The most important institutions of governance are controlled by the two political parties, such as finance, the military, security forces and the police”. The two main political parties control the electoral system; they work not to win elections in a healthy democratic environment but to maintain a “permanent campaign of propaganda” in favour of their leaders by any means; once they came to power, instead of fulfilling the demands of the uprising, they fought for more power, collecting wealth by abusing their authority (Kader, 2010).

The above statements were confirmed by many other interviewees. For example, a judge of the Criminal Court (interviewee 35) stated that “in Kurdistan, as in other neighbouring countries, the ruling parties controlled everything in the country and they misuse the power to keep their seats and collect wealth for themselves”. A GM MP (interviewee 9) argued that the ruling parties controlled the public revenue, the recruiting system and the media, and used these for the benefit of their parties. Thus, the regime in Kurdistan was that of a hegemonic party; the two winning parties in the 1992 elections distributed financial resources and power between them on a 50–50 basis (Voller, 2012, p.149). All political activity was concentrated within the government coalition under the direct control of the two main parties. In this context, parties outside the coalition were allowed to exist but not to compete for power, at the same time as being dismissed as reactionary groups (GM politician, interviewee 15). An academic (Interviewee No 20) argued that

[The ruling parties] were winners for the past 21 years and, even though they were two different parties, they announced the election’s outcome as 50–50 because neither of them accepted any other – they both wanted to share power on the basis of equal shares.

Another problem with elections was that, between 1991 and 2005, general elections were only held only once, due to the civil war and internal conflict between the two main parties.

In addition, the elections held in Kurdistan were neither free nor fair. The two big political parties dominated the region and used public funds for their respective interests. These ruling parties only allowed a semi-competitive election, which tolerated minority parties participating in the election process on the condition that they remained minority and ineffective. These semi-competitive conditions would be indicated by the coexistence of opposition parties and the hegemonic party, whose specific norms of social articulation (corporate or clientelist) guaranteed its predominance over the other parties, even with some real or formal guarantees for the competence of other parties and political pluralism (Dahl, cited in Fuentes, 2004). Palavicini Corona (2000) called this type of political system a “system of hegemonic party”, where there is no real electoral life because opposition parties are allowed to exist but not to compete and elections are

neither competitive nor equitable and free.<sup>8</sup> Consequently, the main political parties in Kurdistan became a potent machine for gaining electoral legitimacy as it was created to rule and not to contest (Qadr, 2007, p.321). For the same reasons, Voller (2012, pp.149–52) argues that the ruling parties in Kurdistan were not in favour of holding elections but decided to go for elections for two reasons: first, they saw elections as the only way to settle tensions among themselves about the division of resources and power and, second, in order to secure international legitimacy for the *de facto* existence of Kurdistan autonomy.

By the time of the invasion of Iraq by the US-led coalition in 2003, a federal framework for Iraqi Kurdistan had been established.<sup>9</sup> Through analysis of the situation at the time, it would appear that there was a good opportunity for the KRG to provide a better QoG in the region for a number of reasons. The first was that, since 1992, the Kurds had managed to maintain a strong military and police and security forces, with the capacity to maintain security in the region. The second reason was that, when Kurdistan became free from the dictatorship, it established its own parliament, government and judiciary, which made the Kurds better off than people in other parts of Iraq, who continued to be ruled by a dictator until 2003. Third, the 2005 constitution drafted under US supervision codified Kurdistan's autonomy, giving legal recognition to a *de facto* state of Kurdistan as a federal state, where Kurds could attain autonomy within the central federal state alongside improvements to their socio-economic and political situation.<sup>10</sup> Fourth, the 2005 Iraqi Constitution allocates greater powers to the KRG, particularly in the

---

8 The term “hegemonic party” given by Giovanni Sartori identified a type of party system without real electoral life that did not correspond to the one-party system of the Soviet bloc.

9 Regional and international pressure, in particular from Turkey, Iran and the US, was exerted on the Kurdish leadership to keep Kurdish territories within Iraq, because of fears that Kurdish separatism in Iraq would spread to the rest of the Islamic world and create political chaos in the other Kurdish territories.

10 According to the Iraqi constitution, a president is elected with a two-thirds majority of the Iraqi National Assembly. He/she serves a maximum of two four-year terms as head of state (Article 70, Iraqi Constitution 2005). The problem of sectarian identities has always played a role in politics. Taking into account the balance, the political parties in Iraq agreed to share high-level posts between the main three groups of Shia, Sunni and Kurds. The Prime Minister would be Shiite, the Speaker of Parliament Sunni and the President (head of state) Kurdish. Kurds also hold the significant posts of deputy prime minister, vice president and foreign minister.

management of public resources.<sup>11</sup> Fifth, since the start of the UN oil-for-food programme in 1997, Kurdistan has become a stable, secure and prosperous region and has seen great economic development in particular. Following the invasion of Iraq, some writers therefore expected that the experience of the Kurdistan Region could serve as a successful model for other parts of Iraq.<sup>12</sup>

However, the KRG has three major issues with the central Iraqi government which have become major obstacles to its development.<sup>13</sup> First, the central government has been attempting to regain some of the authority devolved to the Kurds by the 2005 Iraqi constitution, in particular in relation to the oil industry and the territories disputed between the KRG and central Iraqi government, such as the city of Kirkuk. Article 140 was put into the 2005 constitution with the intention to settle this dispute, but has never been implemented. Second, the KRG announced that it wanted to build two direct pipelines from Kurdistan to Turkey, which was considered by the central government as a big step towards independence in the Kurdistan Region – something clearly

---

11 See Articles 116 to 122. The new constitution recognised once more the legitimacy of the existing KRG and, with the Kurds accepting the constitution, the Kurdish people too recognised the legitimacy and authority of Baghdad over Iraq as a whole (Article 117). Nevertheless, the KRG as a federal entity inside Iraq was allowed greater autonomy over foreign affairs and domestic policy (Article 105).

12 The Kurds had a major role in the new Iraq. However, this did not last. In the March 2010 Iraqi parliamentary election, the Kurds lost their position as king-makers in the central government, because they only obtained 57 seats in the Assembly. Because the current Shia prime minister's bloc has 89 seats, a Sunni bloc has 91, and a rival bloc of ISCI/Sadr/other Shiites has 70 seats, the main Kurdish bloc's seats are not sufficient to swing the debate either way. In other words, the total number of Shia seats is enough to form a government without Kurdish support, and the Sunni bloc does not have enough seats to form a cabinet even with the addition of the Kurdish seats.

13 Media reports on these issues include: "Iraq warns northern Kurdish region that its oil deals with Turkey must have Baghdad approval," Associated Press, 21 May 2012; Van Heuvelen, B., "KRG claims right to independent crude exports," Iraq Oil Report, 5 October 2012. Available at <http://www.iraqoilreport.com/politics/kr-g-claims-right-to-independent-crude-exports-7954/> [Accessed on 19th November, 2014]; Abdul Razaq, H. and Ahmed, H., "Oil Expert: Baghdad Usurps Oil of Disputed Territories," Rudaw News, 4 September 2012. Available at <http://rudaw.net/sorani/kurdistan> [Accessed on 19th November, 2014]; Wilson, N. "Turkey to Sell Kurdish Oil on Global Markets," International Business Times, 13 May 2014. Available at: <http://www.ibtimes.co.uk/turkey-sell-kurdish-oil-global-markets-1448453> [Accessed on 19th November, 2014]; and Natali, D., "Baghdad and Erbil Clash Over Oil," Al-Monitor, 9 April 2012. Available at: <http://www.al-monitor.com/pulse/originals/2012/al-monitor/iraqs-energy-imbroglio.html> [Accessed on 19th November, 2014]

unacceptable to the Iraqi government (Natali, 2012).<sup>14</sup> Third, although there is some political cooperation between the state institutions in the KRG and those in Baghdad, there is no administrative relationship between the two.

Some of the interviewees believed that the revolutionary origin of the Kurdistan regime was similar to that in other countries, such as Cuba and Mexico, where the official party was very powerful in maintaining discipline and loyalty and the main political parties monopolised the parliament and government. Holders of all high positions were directly recruited by the parties in collusion, and most public officials and judges were appointed on their recommendation (interviewees 6, 8 and 28). The three state authorities were thus merged into the executive branch, with the major parties at the top. This opinion was expressed by the majority of interviewees. For example, an MP from the ruling PUK (interviewee 5) stated “the two state authorities, the government and the judiciaries, are mixed up and the political parties have control over them at the top”.<sup>15</sup> The majority of interviewees argued that, under such a politically dominated system, the Kurdistan parliament failed to play its vital role as a democratic institution to perform its legislative, supervisory and representative functions – serving as a bridge between the government and society – due to the fact that the executive is centralised and dominated by the politicians, combined with weak parliamentary, judicial and local government institutions. Thus, the parliament has not been able to strengthen good governance values of accountability, transparency and participation because parliament has been ruled by the majority political parties, which outline an agenda and style of work that favour its own political interests and becomes a rubber stamp of the executive branch. As expressed by a PUK MP (interviewee 5), this makes parliament “weak, unresponsive and not able to hold the government to account for what it does”.

---

14 The State of the Kurdish Regional Government in Iraq, an Interview by Musings on Iraq with Dr. Denise Natali; the Minerva Chair at the Institute for National Strategic Studies at the National Defence University. Available at: <http://musingsoniraq.blogspot.co.uk/2012/08/the-state-of-kurdish-regional.html> [Accessed on 8th February, 2013]

15 However, contrary to this opinion, some interviewees from the other ruling party denied such interference by politicians. For example, a KDP MP (interviewee 39) argued that “The problem is that the opposition works hard to encourage people not to trust the authority; they want to plant seeds of hatred between the people and government. This is not in the interest of our national security, rather in the interest of our enemies.”

Like other institutions, the public prosecution services are not immune from political influence. A KIG politician (interviewee 4) argued that “The public prosecution service and courts in each geographical area are under the influence of the ruling political party in that particular area”. One of the shortcomings of the public prosecution service in the Kurdistan Region is that it officially belongs to the Ministry of Justice, which is part of the government and therefore controlled by the ruling parties. A GM MP (interviewee 9) commented:

The public prosecution service is not powerful and not independent, because it belongs to the ministry of justice which is a part of the government. For example, last week a delegation from the public prosecution service of Sulaimaniyah and Erbil came to parliament and complained about the situation, stating that they had no power to bring forward cases of corruption, in particular those cases related to high-level politicians and officials.

Several other interviewees confirmed that, for the same reason, public prosecutors were unable to bring cases of corruption where high-level officials were involved.

Some interviewees suggested that the public prosecution service should therefore become part of the Judicial Council, which is an independent body and might give more power and control to prosecutors to do their job. However, a former vice president of the Iraqi Federal Board of Supreme Audit (interviewee 27) was disappointed in the Judicial Council because, in his opinion, its members are themselves not independent. He asked “Who appointed the judicial council? The president of the KRG, who is head of the KDP and appoints those close to his party. So they are not independent.”

Thus, since the establishment of the first Kurdish government, there have been various degrees of political interference in government institutions, although the ruling parties have always claimed to rule the region according to democratic principles – in particular after 2005, since when they have regularly held elections, and government includes democratic institutions. As mentioned above, these institutions have always been criticised for being dominated by the ruling parties and used for the benefit of their leaders and members.

Most interviewees referred to faults in the political system in Kurdistan as the main problem and source of the existing bad governance system in the region. This defective political system is represented by the political domination of public and private life, and the abuse of power for private gain has created an environment that encourages corruption within the public institutions (KIU MP, interviewee 13). A GM politician (interviewee 15) stated that

There are many causes; however, the main one, from which I think all others derive, is the political domination over state institutions and over people's lives. The ruling parties in the KRG control everything, the government institutions, the police, the military, the security services and the courts. The politicians use these institutions for their corrupt activities.

A KIU politician (interviewee 8) corroborated this opinion that the biggest obstacle to the reform process is the political system:

The ruling parties themselves are like the mafia; there are bands of corrupt people spreading among the government institutions and they are working in bands related to each other. These people created a strong shell around corruption to protect themselves and do not let anyone destroy their shell.

Hence, one of the main problems in Kurdistan is political domination. The region lacks a strong political system willing and able to provide an environment that supports reform in the structure of government institutions to improve their performance (GM politician, interviewee 17).

### ***Political domination of freedoms (freedom of expression and association)***

The role of the press and freedom of association have recently attracted attention for their links to democracy. Cogen and De Brabandere (2007, p.673) argue that freedom of speech and free public debate is essential for any democracy and an important precondition for free and fair elections. Freedom of expression gives citizens the opportunity to participate effectively in political life by expressing their views and having discussions between themselves, and informing the politicians and the government of their views, in order to adopt them in their policies and strategies. Freedom of expression means not only the right to be heard but also the right to hear what others have to say (Dahl, 1998, p.241).



The rights to freedom of association and of assembly are closely linked to freedom of expression and are essential components of democracy. They include the right to demonstrate, assemble, protest, and to form and join political parties, organisations and clubs for the protection of their interests. Freedom of association is a prerequisite for democratic representation and for genuine participation in political debate and government decisions (Dahl, 1998, pp.241–3).

The media are a key channel for informing citizens about their rights and duties, and public affairs, and an important means of communication between the people and their representative in parliament. Through their detective and investigative work, the media can play a watchdog role against government abuse. How well and effectively the media fulfil these duties is important for QoG (interviewees 1, 3, 7, 9, 11, 13, 15, 20, 23, 30, 36 and 41). Lederman, Loayza and Reis Soares (2001, pp.31–3) tried to determine the effect that the media can potentially play in combating corruption. Their findings support the hypothesis that a free press effectively deters corruption, and that consequently countries where free media exist and access to the press is more widespread will experience less corruption. Brunetti and Weder (2003, pp.1801–24) carried out extensive research in this area and came to a similar conclusion.<sup>16</sup> Their empirical studies have shown that decisions by officials in the public sector on whether or not to behave corruptly depend, like any other offence, upon the amount of gain received, the probability of being detected and the size of any punishment upon being convicted. It has been suggested, therefore, that a free and independent media can form a significant part of the detection process of the offence of corruption and therefore work as a deterrent to corruption, and that low levels of press freedom are associated with high levels of corruption (Lijphart, 2002; Brunetti and Weder, 2003, pp.1801–24).<sup>17</sup>

---

16 They also determined that four variables that influence the media are laws and regulations, and economic, political and repressive actions.

17 While generally true that developed states possess freedom of the media as well as good governance and developing states mostly have high corruption and low press freedom, the researchers submit that there are some exceptions to the rule. Developed countries such as Italy and Hungary, with a good legal framework for freedoms and liberties, and developing countries like India, the Philippines, Mexico, Russia and some Latin American states, have a mostly good environment for freedom of expression, but

Adserà, Boix and Payne (2000) keep data on the daily average consumption of newspapers per person, and found that it varies from 0.7 copies per person in Hong Kong to 0 in Mauritania. They concluded that the number of newspapers per person is negatively associated with the level of corruption. In this context, they suggest that state control of the media will lead to serious corruption. In particular, in a newly established democratic region such as Kurdistan, the ruling parties could easily utilise the media to influence the political agenda in the region. In newly democratic states, the media can play a significant role in directing the public and legitimising the new regime (Lindstedt and Naurin, 2005, pp.25–6). As discussed below, both the available literature and the majority of interviewees suggest that the ruling parties in Kurdistan used various means to restrict the freedom of the media such as legislation, threats and intimidation, physical harassment, verbal abuse, media concentration and the provision of limited information by the government.

Reporters Without Borders (2010) noted that the media play a major role in shaping the views of Kurdish people. The opinions of a significant number of interviewees<sup>18</sup> on the effect of the media on QoG in Kurdistan can be summarised as follows. If the core of democracy and QoG is people's participation in the decision-making process and in governing the country in the best way (direct or through their representatives), then it could be said that the media played a big role in the success of this process in at least three ways:

1. Creating citizen awareness by transferring reliable and true information, so they can decide according to their beliefs and interests and vote for the group or the party that the citizen thinks best able to protect his/her interests;
2. The media is a most effective instrument for creating opportunities to participate in public opinion. For example, the media provide an opportunity for experts, opinion formers and even those who were traditionally ignored to participate in

---

all have high levels of corruption. However, countries such as Malaysia, Singapore and Jordan, with a very limited legal framework for freedom of the press, have low levels of corruption.

18 Interviewees 2, 3, 6, 9, 11, 13, 18, 20, 21, 28, 29, 36 and 41.

public debate through the free media on the one hand and through monitoring the ruling parties and the government's actions on the other;

3. The free press can support the detection of corruption and therefore act as a deterrent to it. This can help the process of accountability.

On the official level, there is freedom of the press in Iraq and the Kurdistan Region. For example, the 2005 Iraqi constitution appreciated the importance of freedom of expression. Article 38 holds that the state will guarantee, in a way that does not violate public order and morality, freedom of expression through all means (Iraqi Constitution, 2005).<sup>19</sup> In 2007 the Kurdistan parliament also passed the Press Law in the Kurdistan Region, which gave more freedom and immunity to journalists (Reporters Without Borders, 2010).

Despite the great improvement in the new law, it still contains several sections that restrict reporters from publishing anything that defames public officials and politicians. For example, under Article 9 journalists can be punished with a fine of between one and five million Iraqi dinars for libel, slander or defamation. This law has been misused by many politicians and officials to convict journalists writing about cases of corruption (interviewees 1, 12, 15, 17, 18, 19, 20 and 28). As a result, many journalists argue that these laws prevent them from practising their jobs free from fear of persecution (US Department of State, 2009).

According to the 2008 US State Department report on human rights in Iraq (including Kurdistan), there were “no government restrictions on access to the Internet or reports

---

<sup>19</sup> In full, the text is: Article 38: “The State shall guarantee in a way that does not violate public order and morality:

A. Freedom of expression using all means. B. Freedom of press, printing, advertisement, media and publication.

C. Freedom of assembly and peaceful demonstration, and this shall be regulated by law.”

Thus, according to this Article, the law could impose restrictions on freedom of expression for the purpose of public order and morality.

Article 39 reads: “First: The freedom to form and join associations and political parties shall be guaranteed, and this shall be regulated by law. Second: It is not permissible to force any person to join any party, society, or political entity, or force him to continue his membership in it.”

that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail” (US Department of State, 2009). In the introduction to its 2007 reports, the State Department rightly notes that

The constitution and law provide a strong framework for the free exercise of human rights, and many citizens contributed to efforts to help build institutions to protect those rights. ... However, the government institutions were greatly stressed and faced difficulty in successfully responding to the challenges presented by widespread human rights abuses ... (US Department of State, 2008a).

A majority of the interviewees suggested that, since 1992, most of the media in Kurdistan are working under the direct or indirect influence of the political parties and represent their interests. For example, a media academic (interviewee 11) stated that “90% of the press and media channels belong to the political parties and they are under their direct or indirect control”. He added that those media that belong to the political parties comply with the parties’ ideological and political boundaries, and work in the interest of those parties, and consequently do not focus on political corruption and mislead the public, in particular during election campaigns. The ruling parties fund these media. A GM MP (interviewee 18) argued that “There is political domination ... the two ruling parties spend public money for their party without restraint. For example, both PUK and KDP spend a large amount of public money for their dependent media channels and press.” The ruling parties in the Kurdistan Region created an environment where citizens, public prosecutors and the media can find it difficult to obtain the information necessary to detect misuse of power and irregularities in public office, which are often indicators of corruption and inappropriate management of public resources (interviewees 7, 20, 30, 38 and 41). Without supervision and transparency of budgets and rules, national resources might be plundered and power abused by corrupt officials. This closely relates to accountability, because lack of transparency and weak accountability mechanisms tend to facilitate corruption (Winkler, 2000).

The interviewees had different opinions about the level of transparency in the KRG. Those loyal to the ruling parties were the most happy about the level of transparency provided by the government, while the opposition supporters were seriously critical. A PUK MP (interviewee 32) considered transparency significant for good governance and

was of the opinion that during the past four years the extent of transparency in government offices had not been bad. She gave some examples of transparency, such as open discussion on budgets in parliament and allowing MPs to investigate governmental documents. In addition, a KDP MP (interviewee 34) argued that government offices had an open-door policy for investigations not just by MPs but also by the public. She added that, with some of her MP colleagues, she had carried out visits to various government offices and they had been welcome to investigate any documents they wanted.

A judge of the High Criminal Court (interviewee 7) felt that a lack of transparency was of itself an indication of corruption, and added

If the government is truthful it does not need to hide data; personally I believe that a large portion of the budget is being taken illegally and will be wasted – the evidence is that the parliament is not aware of the details of the budget and how it will be spent.

The former chairman of the parliamentary Integrity Committee (interviewee 25) said of transparency in Kurdistan:

There is no transparency in parliament. Let me give you a real example which I have seen myself. When I was an MP and I was a head of the Integrity Committee, in our regular meetings I told the members of my committee “we are supposed to monitor the state institutions and chase up cases of corruption and misuse of power. Let’s begin with ourselves, let’s find out how the parliament spends its budget.” Parliament has an annual budget of \$60 million for general expenses, but no one knows how the Speaker of parliament spends this money, there is no transparency at all ... We made a formal request to the Speaker’s office to investigate the spending, but they did not allow us to see any receipts. Any details or even a single file about spending. I personally expect that more than one-third of this money is spent improperly, by which I mean used for their own interests. At the time, I remember, I made a public speech for the media and said if we could not clean our own room – I meant the parliament – how could we clean up Zakho, Halabja and Kifri [the border cities] from corruption?

A former minister (interviewee 36) said that the lack of transparency and accountability could be considered the main defect in the Kurdistan administrative system, where money and budgets are available to officials who have full control and discretion to use this money without a proper mechanism for achieving transparency and accountability;

dishonest officials can easily misuse their power for private gain. For example, officials have wide discretion in spending public money for the purchase of cars for their organisation, to maintain buildings and to grant contracts, and they misuse this discretion for their own benefit.

Furthermore, it should be noted that freedom of expression and the media is closely connected to the availability of alternative sources of information. In an environment where all the information is provided by a single source – especially if this source is the government or a single party or a group – citizens cannot obtain a full and true picture of the public affairs and consequently cannot participate effectively in political life (Dahl, 1998). A majority of interviewees referred to the lack of transparency and lack of the right of access to information as two of the most significant problems in Kurdistan. Until 2013 there was no specific law to regulate access to public information. On the other hand, the right of journalists to access data and information was covered by the Press Law. For example, Article 2 protects journalists' right to "obtain from diverse sources ... information of importance to citizens and relevant to the public interest". But there is nothing in the law to oblige public offices to provide information. Some commentators believe that this may be because government and politicians are against enacting such a law for fear of being blamed by the public or of facing court action; they are always hiding information and data (Karim, 2010a). However, according to some MPs (interviewees 1, 8 and 23), acting under pressure from the opposition parties in 2013 the Kurdish parliament passed the Right to Access Information Law, which guarantees the right of access to public information and was considered by the interviewees as a significant step towards freedom of the media.<sup>20</sup>

Despite the fact the constitution and law in Kurdistan/Iraq recognise the principle of freedom of expression, in practice there has been ongoing violence against journalists in the region. Under Article 9 of the 2007 Press Law, the only penalties for breaching the law's provisions are fines, for example in cases of libel, slander or defamation; there is

---

20 Some journalists argue that, despite the enactment of such a valuable law, legal protection has never been a problem, but rather the failure to implement the law. See Committee to Protect Journalists, "Mountain of impunity looms over Kurdistan journalists", 22 April 2014. Available at <https://cpj.org/reports/2014/04/mountain-of-impunity-looms-over-kurdistan-journali.php> [Accessed on 2nd February, 2015]

nothing in the law that allows journalists to be arrested or imprisoned. However, according to several interviewees, up to 2012 the Kurdistan courts used the 1969 Penal Code, under which journalists could be punished with imprisonment as well as a fine.<sup>21</sup> This tactic was used by the ruling parties as a tool to suppress and punish independent journalists and media, and many interviewees believed that the parties successfully used such tactics until very recently. Commenting on a 2012 report by Human Rights Watch (HRW), Azad Hamad Amin, the head of the Kurdistan Journalists Syndicate, said that the press law that give rights to journalists to do their jobs free from intimidation and threat was not applied in the region (Zebari, 2013b).

According to HRW, Kurdish journalists were being harassed and attacked, particularly in Erbil and Duhuk, for their coverage of corruption. HRW reported that one of *Lvin* magazine's reporters, Soran Mama Hama, was shot and killed on 21 July 2008 in Kirkuk

---

21 Article 433 ("Defamation and insult") of the Iraqi Penal Code No 111 1969 (as amended to 14 March 2010) states:

"(1) Defamation is the imputation to another in public of a particular matter which if true, would expose such person to punishment or cause him to be scorned by society.

Any person who defames another is punishable by detention plus a fine or by one of those penalties. If such defamation is published in a newspaper or publication or other press medium it is considered an aggravating circumstance.

(2) Such person is not permitted to establish the proof of his imputation unless that imputation is directed at a public official or agent or public deputy or he is carrying out an act in the public interest or if such imputation is connected with the office or employment of the aggrieved person but if he establishes the proof of all imputations made, then there is no offence."

Article 403 ("Immodest and shameful acts") states: "Any person who produces, imports, publishes, possesses, obtains or translates a book, printed or other written material, drawing, picture, film, symbol or other thing that violates the public integrity or decency with intent to exploit or distribute such material is punishable by a period of detention not exceeding 2 years plus a fine not exceeding 200 dinars or by one of those penalties."

Article 372 ("Offences that violate religious sensibilities"), the Penal Code states:

"The following persons are punishable by a period of detention not exceeding 3 years or by a fine not exceeding 300 dinars:

... Any person who prints or publishes a book sacred to a religious minority and deliberately misspells the texts so that the meaning of the text is altered or who makes light of its tenets or teachings."

after receiving threats for three months due to his work on corruption.<sup>22</sup> En.rsrf.org reported that the journalist Sardasht Othman was kidnapped by gunmen in Erbil and killed because of his articles criticising the ruling parties; and on 5 December 2013 Kurdish journalist Kawa Garmiani was assassinated by unknown armed men in front of his home in Kalar in the province of Sulaimaniyah (KNN News).<sup>23</sup> A media academic (interviewee 11) pointed out that violence against journalists was a significant issue, arguing that, although there was no official censorship and journalists did not need to obtain government consent to publish news, events had created an environment where journalists had become emotionally subject to self-censorship due to fear of threats and attacks by the security forces, police or unknown armed people.<sup>24</sup> The US State Department confirmed this, stating that: “Violence against the media, primarily by militia and insurgency groups, was commonplace. Media workers reported that they refrained from producing stories on insurgency and militia activity for fear of retaliatory attacks” (US Department of State, 2008b).

Some interviewees suggested that there are clear red lines that could not be crossed by the media: criticism of the president and his family, high-ranking politicians and ministers, and especially cases of corruption. Karzan Karim, a freelance journalist and also an employee of the VIP security department at Erbil International Airport, was kidnapped from his home in November 2012 by members of the Paratsin (the security

---

22 However, the KRG courts took no action to investigate the case of Mr Hama, claiming that it was not within their geographical jurisdiction because he was murdered in Kirkuk, which was not under KRG administration. For more details, see US Department of State (2010); UNPO (2008).

23 For more details, see IFJ (2013); The Kurdistan Tribune “Anti-corruption Kurdish journalist Kawa Garmyani murdered”. Available at: <http://kurdistantribune.com/2013/anticorruption-kurdish-journalist-kawa-garmyani-murdered/>; and “Important detailed information about the journalist Kawa Garmyani’s assassination”. Available at: <http://www.kacfe.org/2014/06/10/important-detailed-information-about-the-journalist-kawa-garmyanis-assassination/>

24 See Article 2 of the Press Law of Kurdistan, 2007. “The press is free and no censorship shall be imposed on it.” See also Article 40 of Iraqi Constitution, 2005: “The freedom of communication and correspondence, postal, telegraphic, electronic, and telephonic, shall be guaranteed and may not be monitored, wiretapped, or disclosed except for legal and security necessity and by a judicial decision.”



arm of the ruling KDP).<sup>25</sup> However, the prime minister claimed that Karim was arrested and detained not for journalism-related work, but rather for divulging sensitive government information to a third party. The independent media claims that Karim was arrested and detained only because he announced that he intended to write about some sensitive political corruption cases at Erbil International Airport related to KDP leaders.

The US State Department claimed that “local security forces harassed and jailed editors of major independent papers for publishing articles that were critical of the KRG or Kurdish party officials, especially for alleged corruption” (US Department of State, 2009). Furthermore, the 2012 HRW report on Iraq noted that at least 50 journalists and opposition political activists had been arbitrarily arrested and detained; seven of them were prosecuted for insulting or defaming public figures. According to the Kurdistan Journalists Syndicate, in the last six months of 2012 there were three major cases of abuse against 14 journalists and eight cases of threats against 11 journalists (Zebari, 2013b). Commenting on the HRW report, the head of the Kurdistan Journalists Syndicate told Al-Monitor: “In our report we mentioned several cases of violations and breaches that could be worse than those cited by the HRW report. However, we noticed that they cited specific sources and did not refer to our report” (ibid.).

Another problem that relates to the freedom of expression and association in Kurdistan is the right to protest. On 3 November 2010, the Kurdistan Parliament passed a law regulating demonstrations within the region; some interviewees believed that the ruling parties passed this law in order to restrict people from protesting against corruption and demanding better public services (interviewees 2, 5, 8, 10 and 13). One NGO explains how the Act could restrict the right of protest:

According to the law, groups organizing any kind of demonstration have [to] register and receive permission to mount these demonstrations from the authorities seventy-two hours beforehand. This stipulation clearly takes away the right of spontaneous demonstration or association. If any violence

---

25 See Human Rights Watch, “Iraqi Kurdistan: Journalist Gets Two Years in Prison”. Available at: <http://www.hrw.org/news/2012/10/14/iraqi-kurdistan-journalist-gets-two-years-prison>; US Department of State (2013).

occurs at the demonstration, the authorities can charge the organizers with a crime.<sup>26</sup>

According to an academic (interviewee 11), the two ruling parties want to justify their actions against free speech. It is obvious that Kurdistan is not an independent state but part of Iraq, with which it is always in dispute. There is still the possibility that extremist Islamic and nationalist parties will take power. This situation is used as an excuse by the ruling parties to mislead the public about why they do not pay attention to the reform process. Through their own media, they try to convince people that radical reforms are a big risk and in the interest of the Kurds' enemies. The ruling parties also spread rumours against free independent voices, accusing them of being traitors and implementers of foreign agendas. Not only were such accusations spread by word of mouth, but the authorities also secretly threatened independent journalists and activists, in some cases even leading to arrest, torture and assassination (Human Rights Watch, 2013).

Some interviewees argued that, despite all the problems and legal boundaries, it is irrational to ascribe the decay in freedom of expression solely to failings in the law or the constitution. Other factors hinder free expression, such as the culture of an authoritarian regime that has ruled the country for a long time (interviewees 2, 10, 28, 32, 33 and 36). In particular, in an environment such as Kurdistan – where the political culture lacks democratic values and norms, and many conflicts and inconsistencies exist in society between the different religious faiths and ethnic groups – this phenomenon of authoritarian culture dominates social and political life and people's choices.

In addition to the political domination of the press, some interviewees (19, 20, 29, 38 and 41) described two other defects in the Kurdish media: first, a lack of professionalism among journalists and second, a lack of trust between independent media and the government. The interviewees considered establishing independent institutions to train Kurdistan journalists, both to develop their credibility and professionalism and to establish trust with the government. This is considered a significant tool to improve the role of the media and direct the journalists to fight corruption in acceptable ways.

---

26 Christian Peacemaker Teams, quoted in UK Home Office (2011).

With regard to the reform process, the majority of interviewees recommended more transparency in the public sector and agreed that the government must provide opportunities for the public, the media and parliament to investigate its work. However, the majority of interviewees suggested that, in spite of all the violence and threats that have been mentioned, the KRG is making some progress in terms of freedoms and civil-society initiatives. There has been significant progress in support of free media, freedom of expression, transparency and accountability. The press has managed, to a significant extent, to maintain its watchdog status, and constructively criticises the government and its policies, and to a limited extent the free press in Kurdistan plays a positive role in improving QoG.

A majority of interviewees believed that the political corruption that has been occurring in Kurdistan has led to a reduction in the quality of public services and an unequal distribution of wealth, public jobs, land and power to its citizens. The quality of education has deteriorated, and the public health services are very poor. Furthermore, political corruption has increased inequality between the region's citizens as the rich continuously get richer and the poor get poorer due to inflation. Kurdistan's problems are similar to those in the former Soviet Union and the Eastern European countries where the government was controlled by the Communist Party (Court of Appeal judge, interviewee 19). At that time, the powerful ruling parties of each country had offices in all the organisations of government in order to be able to control the government and rule the country according to the will of the party and party interests. These parties established their cells in the form of a pyramid; it was a hierarchical system with the final decisions left to the head of the party (Latif, 2010). The reasoning behind the above defects in relation to implementing the constitution was explained by Hardi (2011), who states that between 1960 and 1970 most Kurdish political parties were founded on communist ideologies and consequently came under the influence of the Soviet Union's form of communism (Stalinist–Leninist), which did not tolerate differences in ideas and thinking. This created a totalitarian character among the Kurdish political parties. Hardi further explains the bad side of this communist culture of political domination as follows:

- There was no acceptance of pluralism or variation of political opinion. This resulted in internal fighting between the two ruling parties in the mountains both before 1991

and after when the uprising occurred, and spread across the geographical area of Kurdistan. Thus the PUK controlled and administered the “green area” (Sulaimaniyah) and the KDP the “yellow area” (Erbil and Duhuk);

- A culture of revenge was created. The two ruling parties constantly used violence against anyone who opposed them;
- They discouraged implementation of the rule of law. There was no punishment of powerful people, only the poor (inequality);
- They controlled the media, deprived people of freedom of expression and encouraged a culture of silence and acceptance;
- The judiciary was partial, through recruitment of judges and public prosecutors from among party members. More account was taken of their political influence than their experience and qualifications.

A former deputy minister (interviewee 27) confirmed that there was political interference in government works; this was the most extensive type of corruption and the source of other types in the public sector, and political leaders sometimes acted like ministers. He argued that even the Minister of Finance was not aware of details about the money derived from oil or how much oil been extracted, and did not have access to all the money earned from oil because these deals were carried out by high-ranking politicians. In 2011, the Minister of Finance was questioned by parliament about these details, but admitted that he was not aware of many of the details. This is because the oil sector is dominated by the Ministry of Natural Resources, which is under the control of the KDP (the dominant political party), while the Ministry of Finance used to be controlled by the smaller PUK. This situation continues, as the current Minister of Finance, Rebaz Hamlan, is from Gorran (formerly an opposition party). In an interview with KNN TV channel, he said:

Among the violations carried out by the Ministry of Natural Resources in the previous cabinet was that all oil and gas companies were exempted from tariffs ... parliament was not aware of the contracts and work carried out by those companies in that period, about 36 companies operating in oil production in 59 locations.<sup>27</sup>

---

27 KNN TV, interview with Minister of Finance, Rebaz Hamlan, 17 May 2015. Available at: <http://ekurd.net/iraqi-kurdistan-ministry-of-finance-natural-resources-did-not-answer-our-questions-2015-05-17> [Accessed on 20th June, 2015]

The nature of ruling political parties in Kurdistan is different from politics in democratic states. The state is merely a façade that hides personalised political relations, favouritism and political corruption. An academic (interviewee 5) believed that political domination was one of the main causes of corruption, and argued that free media and opposition can monitor this issue and criticise it publicly. In addition, he believed that establishing a technocratic government<sup>28</sup> that is not influenced by parties could reduce the level of corruption.

In relation to political domination of parliament, a GM MP (interviewee 2) felt that the majority of MPs, the Speaker and many parliamentary committee members all worked under the direct influence of the main political parties. They felt that their duty was to hide the faults and corruption of the government. Hence, they played the role of a shield to defend the government, rather than monitoring its work. The majority of interviewees thought that the judiciary was under similar political influence as other state institutions. For example, a KIG politician (interviewee 4) said:

It is obvious that the judicial committees are currently appointed by the president of the Kurdistan Region, who is head of the KDP (the biggest ruling party), so he is not going to appoint anyone to this position except those who are loyal to their party and obey their orders”

### ***Funding of political parties***

Political campaigns are essential for representative democracy as they determine which party will attract the most votes. It is clear that party campaigns require funds, whether these come from party donors, government funding or illegal sources. It is argued that disproportionate political finances may harm the electoral process as imbalance in the funding of political parties can reduce the prospects of equal political competition (USAID, 2003).

---

28 In a technocracy, politicians are replaced in government by professionals, such as scientists and engineers, because these people are more competent to manage government portfolios. This movement first appeared in the early 20th century in the United States and Canada (Taylor, 1988, p.213).

To achieve equality in political competition, the quantity, point of supply and intention of the money obtained in politics must be transparent and clearly reported, and be made viably available to the public. Such financial declarations can prevent the misuse of public funds by powerful political parties to strengthen their position and buy votes (USAID, 2003).

According to Knights (2009), in Kurdistan corruption is high due to the lack of political competition. Political parties use public wealth to purchase power and, in certain places where economic opportunities are few, corruption takes place because people use political power to acquire wealth. Abdulla (2012) said that in Kurdistan corruption has been focused largely in the political domain, whereby the two political parties dominate the public and private sectors and use these institutions in a patron–client relationship through which they offer money and services, in return for which they receive support and loyalty.

A GM MP (interviewee 2) suggested that, due to such problems, there must be specific laws and regulations governing the political parties and election campaigns. These are essential in order to prevent funding through illegal sources and the consequences of disproportionate political financing. In addition, the electoral law must be amended to prevent the political parties engaging in illegitimate electoral expenditure, such as vote-buying and various forms of bribery. Furthermore, another GM MP (interviewee 9) argued that, to prevent vote-buying, the political parties should be obliged to declare their expenditure on electoral campaigns.

### ***Absence of a strong political opposition***

Political parties are an essential element of parliament, as it not only represents citizens as individuals, but also the people collectively (through the political parties) to progress certain policies (Dahl, 1998). A plurality of political parties serves to give the electorate a free choice in electing their representatives from various parties, and to deliver people's demands to parliament and feed into ongoing public debate as the basis for policy-making. In this context, political competition and opposition parties can be considered as significant elements of the election mechanism that grant citizens choice

and power to throw out unresponsive elected politicians (interviewees 1, 4, 7, 8, 15, 20, 22 and 28).

To assess the role of the opposition in the democratic process in Kurdistan one should look back to 1992, when the first election was held. In that year the two main political parties obtained nearly 90% of the votes, and established a government between them on the basis of 50% each. Due to the civil war and conflict between the PUK and KDP, no further elections were held until 2005, and Kurdistan administrations were divided between the two parties geographically. The two parties ruled the areas under their control and both oppressed the smaller political parties and impeded their operation (interviewees 1, 4, 6, 8, 33, 34, 38 and 41). In 2005, the Kurdish authorities held new elections; the two dominant parties, KDP and PUK, ran on a joint list, called the Democratic Patriotic Alliance of Kurdistan, in order to avoid further conflict between them and to divide power equitably according to their pre-election agreement. In this election, the coalition once more gained the majority of votes (nearly 90%), which allowed them for a second time to suppress voices of opposition and to divide up key positions in government between themselves (Leezenberg, 2005).<sup>29</sup>

In 2009, a new movement (Movement for Change, or *Gorran* (GM)) appeared in Kurdistan. GM is led by former PUK deputy leader, Nawshirwan Mustafa, who resigned from the PUK in 2005. The majority of GM members were young people disappointed with the two main parties. GM participated in the 2009 general election and obtained 25% of the votes, becoming the second-largest party. Other “reformist” parties obtained 13% of the vote, and the three opposition parties together gained around 38 of the 100 parliamentary seats. Subsequently, the opposition parties have called for more reform and the number of votes won by the KDP–PUK “Kurdistani” list has declined; they obtained only around 55% of the seats in the last election on 25 July 2009.

Until 2009 Kurdistan lacked active opposition parties. What opposition did exist at the time was weak and could not play a significant role in monitoring the government.

---

29 The KDP leader, Massoud Barzani, assumed the presidency of the Kurdistan region, and his nephew Nechervan Barzani became prime minister; from the PUK, Jalal Talabani obtained the presidency of Iraq and Adnan Mufti became Speaker of the Kurdistan parliament, overseeing a unified, albeit inactive parliament.

Furthermore, opposition came mostly from Islamic parties (Kurdistan Islamic Union, Kurdistan Islamic Movement and Kurdistan Islamic Group) and people – in particular liberals – did not trust these parties. The opposition parties during that time were therefore able to provide people with an alternative in elections, and to remove the elite “rascals” (interviewees 1 and 7). In this regard an academic (interviewee 1) said, “the problem was that there was no effective and active opposition, which gave the majority parties a chance to form the government and rule the state according to their interests with no one to criticise them”. It is thus reasonable to conclude that the lack of an active and trustworthy opposition is an obstacle to the reform process and the improvement of QoG. Hence, the absence of active opposition parties for nearly 17 years is a significant cause of corruption (interviewees 2 and 41), as there were no real alternatives for people, and the ruling parties were able to win the elections and misuse power without fear of being penalised by voters.

Most opposition party interviewees argued that the PUK and KDP, who are the main beneficiaries of corruption, have always resisted opposition by using violence and other forms of oppression. The ruling parties also try to justify their actions by making excuses such as external enemies and threats to national security. However, one KDP MP (interviewee 33) said,

I do not believe that facing up to the enemy is simply an excuse. I think it is a fact – we have a real problem with the Iraqi government over disputed land and the KRG budget, and I believe priority must be given to these issues.

Such statements illustrate that the ruling parties portray themselves as the only rescue force and people are left with two options – either to accept a Kurdish authority with all its defects (including corruption) or face violence and oppression by Arabs. However, some interviewees (8, 9, 15 and 31) were in total disagreement with this view and believed that, by making such excuses, the ruling parties were only trying to justify their unfair extraction of rents from the national treasury and to maintain their power, and they want to mislead the public in order to ignore the issue of corruption, which they do not consider a priority.



The appearance of opposition for the first time in 2009, with 38% of parliamentary seats, changed the outlook of the region's political space. In particular, the opposition parties played a significant role in public awareness by explaining public finances and how the government deals with this revenue (academic, interviewee 11).

This study argues that democratisation in Kurdistan is a negotiation between the opposition and the authoritarian power, in which the strength and positioning of different factions determines the transitional outcome, and in this context the opposition plays an important role. Huntington (1991, p.114) identified three different modes of transition:

1. Transition occurs when the ruling party, by its own volition, introduces favourable reforms for better QoG;
2. Trans-placement. This happens when the ruling party and opposition are both willing and agree to bring about changes by negotiation;
3. Replacement. This can take place when the opposition undermines the legitimacy of the ruling elite and undertakes responsibility to make political changes after removing the ruling party from power.

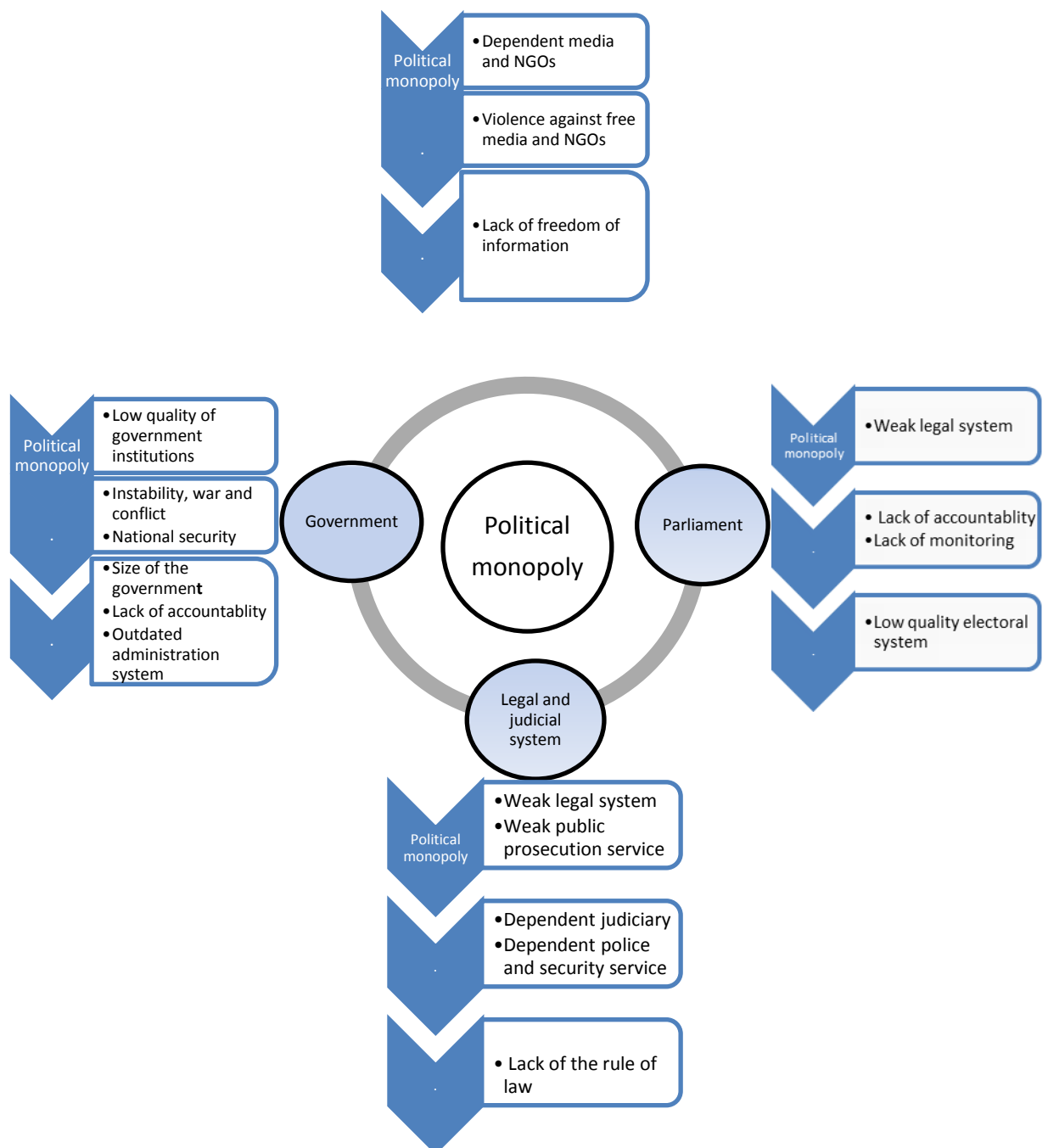
Thus, if the government ignores the public's demands and continues to manipulate the electoral process, and voters have not been given a chance for peaceful political change, people may become disappointed and opposition parties may decide that the only way to change is to topple the incumbent by violence, as happened in Nicaragua in 1961. In such situations, the risk of conflict will increase while corruption and injustice go unchecked, dragging the entire political system into crisis (Klitgaard, 1988, pp.136–9). In February 2011, the opposition parties tried to use the third of Huntington's options for reform. They encouraged people to protest, asking for the dissolution of the government and its replacement with one of technocrats. The protest started in Sulaimaniyah on 17 February 2011 and lasted until 30 April, when it was ended by force (Stahlschmidt and Johannisson, 2011). When the opposition was disappointed with that option, they used the second option ("Trans-placement") to bring about change through negotiations with the government and presented the government with a package of six main points for reform.<sup>30</sup>

---

<sup>30</sup> Details of this six-point package are given in Chapter 8.

In the general elections of November 2013, the political position of the opposition parties significantly improved, when they obtained 40 seats between them (two more than in the 2009 election). After long discussions, they decided to form a coalition government with the ruling parties, which had obtained 56 seats (National Democratic Institute, 2013). This coalition again resulted in a weakening of the opposition voice, but all the political parties described the coalition as the best option in the circumstances, due to external fears emanating from the Iraqi government (Barwari, 2014).

Figure 1: Political monopolisation of power in Kurdistan



### **Nature of Inquiry**

The Kurdish uprising was initially a result of the people's anger at the Arab dictatorship. It focused on ending the dictatorship and the oppression of the Kurds of Iraq. The initial main demands of the Peshmerga were therefore democracy, participatory policy and the Kurdish national right to self-governance. From the beginning, the two ruling political parties in Kurdistan promised to endorse the principles of democracy in their political agendas (Feldman and Martinez, 2006, pp.888–9).

As this thesis involves discussion of the reasons for the failure to implement the constitution in Kurdistan, this discussion begins with the constitution of Iraq. The Iraqi constitution provides for establishment of the state institutions, determines their functions and powers, and in particular defines the powers of the KRG and the federal government, and outlines the rights of citizens (Feldman and Martinez, 2006, p.889).

It is clear from the preamble that the new Iraqi constitution of 2005 – adopted after the country's liberation – aimed to replace the long-standing authoritarian regime with a democratic government that would deliver good governance in Iraq. For this reason, as will be explained below, the constitution includes provisions for the establishment of democratic and good governance institutions (Article 19, Global Campaign for Free Expression, 2005). The preamble of the Constitution of Iraq describes Iraq as a democratic, federal, representative, parliamentary republic, in which governance is based on the peaceful transfer of power, fair distribution of financial resources and providing citizens with equal opportunity. The constitution recognises the KRG and gives it authority to amend laws in its region, to have its own security forces, and to establish consulates abroad (Article 117). It recognises Kurdish as an official language along with Arabic (Article 4). In addition, the new constitution granted the Kurdistan state broad financial and administrative authority that would enable Kurdistan to manage its administrative affairs in line with the principle of decentralised administration (Article 121).

The new constitution expressly affirms the doctrine of one of the most significant requirements for good governance, namely the separation of powers (Article 47) and the

rule of law (Article 19). This was a major change as, for a number of decades, power in Iraq was concentrated in the executive which was itself ruled by a single party or, more accurately, a single person (Katzman and Prados, 2005).

Researchers suggest that democratisation (generally) would be supportive in introducing good laws and regulations, and enhancing the rule of law, all of which can subsequently support improving the quality of governance (Charron and Lapuente, 2010, pp.443–470; Collier, 2009, pp.161–4; Rothstein and Teorell, 2008, pp.165–90).<sup>31</sup> The relevant provisions of Iraq’s constitution are important to this study because they can clarify whether the constitution supports the democratic process, and whether the defect is with the actual document or results from a failure to implement the constitution.

The central questions of this study are: (1) whether democratic provisions enshrined in the constitutions provide a robust framework for the creation of a better QoG and (2) why these democratic provisions in the constitutions could not be implemented in practice. Many factors influence establishing a QoG in any state, such as a pre-existing good economic environment, cultural support for participation in the decision-making process, a modern administration system, the existence of cooperation among the various social organisations and good constitutional frameworks (Charron and Lapuente, 2010, p.443–470). Dahl states that “a constitution might help to provide stability for the basic democratic political institutions” (1998, p.124), in particular where a democratic system gives opportunities to citizens to choose their representatives in a free and fair election.

As mentioned above, the Iraqi constitution expressly recognises Kurdistan as a region and grants the region the right to adopt its own constitution. On that basis Kurdistan produced its first draft constitution, which the Iraqi Kurdistan parliament approved on 24 June 2009, but it has yet to be ratified by a general referendum as required by Article 118, and thereby enter into force.<sup>32</sup>

---

<sup>31</sup> This issue is considered in more detail in Chapter 5.

<sup>32</sup> Kurdistan Regional Draft Constitution, Article 118: “This Constitution shall be considered ratified after it has been approved in a public referendum by a majority of the voters of the people of the Kurdistan Region.”

In its preamble the 2009 Kurdistan Draft Constitution also considers Kurdistan to be a democratic state that upholds the rule of law and adopts the principles of human rights, and works to establish good governance. The Preamble states, *inter alia*:

We, the People of Iraqi Kurdistan ... seeking to build Kurdistan as a nation united for all, founded on democratic values, and enlightened by the principles of human rights, where law and justice prevail; striving to establish good governance that emanates from our free will, embodies our hopes, and honours our sacrifices ...<sup>33</sup>

In addition, Article 1 holds that

The Iraqi Kurdistan Region is a region within the Federal State of Iraq. It is a democratic republic with a parliamentary political system that is based on political pluralism, the principle of separation of powers, and the peaceful transfer of power through direct, general, and periodic elections that use a secret ballot.

In Article 3, the draft constitution clearly outlines that authority should be exercised by the people: “people are the source of authority and the basis of its legitimacy: said authority shall be exercised by the people through their constitutional institutions.” In addition, Article 40 states that “... Member of Parliament must work in [the] public interest and for [the] protection of human rights and public funds”. The same Article obliges members of the Parliament to take a constitutional oath to secure freedoms and the rights of citizens and to work in the interest of the people. Also, before assuming their duties (Article 63) the President and the Vice President of the Region shall take an oath before the Kurdish Parliament to protect the interests of the people and to adhere to the constitution of the region of Iraqi Kurdistan.<sup>34</sup>

The constitution of Kurdistan embodies all the most important elements for democracy and QoG. It also constantly repeats the term “public interest” – for example, in the Preamble and Article 19; officials and politicians must accordingly be driven by ethics related to the principles of impartiality and public interest (Article 88), and a governance free of corruption that serves the interests of the people rather than its own or those of a

---

33 Kurdistan Region Draft Constitution 2009, Preamble.

34 Kurdistan Region Draft Constitution 2009, Articles 1, 3, 40 and 63. Available at <http://www.unpo.org/article/538> [Accessed 18th December 2013]

narrow ruling elite; civil servants and public officials are expected to demonstrate the highest standards of loyalty and professional effectiveness, performance and competence at all times working to advance the public good.<sup>35</sup> Thus, the constitution itself mentions the public interest as a good indication of QoG intended to be central to policy debate, politics, democracy and the nature of government itself, in particular when QoG is understood as a government that responds to the masses, has a strategy for reducing inequality among citizens and delivers far-reaching improvements in various aspects of the people's lives such as health services, education and social welfare (Diamond, 2002, pp.21–36).

This thesis examines whether the government is able to fulfil its duties as given in the constitutions. The links between democracy and QoG must first be explained; then an assessment should be conducted to see whether state institutions in the KRG have been able to deliver the democratic values mentioned in the Iraqi and Kurdistan constitutions so as to achieve a better QoG and, if not, what were the obstacles to the implementation of these values. This thesis should therefore assess the extent to which the KRG has been successful in recent years in the implementation of the constitutions, in particular in implementing those provisions that provide for a QoG and democratisation process such as transparency, government accountability, freedom of speech and association, and free and fair elections.

For nearly two decades, the two main parties controlled and managed the public sector in the region through direct administration by their party members. For example, most recruitment of public employees, and new appointments in the administration and cabinet ministries, were directly decided by the leaders of the KDP and PUK without any consideration of the professional qualifications or skills required. Due to this political dominance over government institutions, public offices functioned very poorly and corruption flourished (Qadir, 2007).

With reference to the various democratic values mentioned in the constitution, a very limited form of democracy was practised at the beginning of the Kurdish uprising, even more limited than the narrow approach of “competitive elections” mentioned by

---

35 Kurdistan Region Draft Constitution 2009, Articles 19 and 88.

Schumpeter (1947) or Huntington (1996),<sup>36</sup> suggesting that democracy could include open, free and fair elections. One of the defects with the governance system related to the failure of government in implementing the democratic principles suggested by the constitution (Qadr, 2007, p.23).

Democracy in Kurdistan has been criticised by many commentators because of the political domination and political influence on all state institutions, including government, parliament, the judiciary, military forces, police and security services.<sup>37</sup> For example, one political commentator (Karim, 2008) suggested that democracy in Kurdistan is far less advanced than what is set down by the constitution, and that the political system in Kurdistan could be said to be a semi-democratic regime for three reasons:

- Kurdistan lacks significant competition between the political parties;
- Elections are not fair and transparent; and
- The ruling parties maintain a policy of discipline and loyalty to remain in power.

Karim (2008) added that “the ruling political parties monopolised the parliament and the government, and utilised these institutions for their political and personal interests. Holders of all high positions were directly recruited by the colluding parties and most of the public officials and judges were appointed on the recommendation of the colluding parties. Therefore, the three state authorities were merged into the executive branch, with the ruling parties on top” (2008, p.3).

Another well-known journalist, Hardi (2013), criticised the practise of democracy in Kurdistan for lacking four significant elements that should exist in any democratic society: an active civil society, a free independent media, an independent judicial system and free and open elections.

---

36 Further details about the various approaches of democracy will be given in Chapter 2.

37 See more detail in the following chapters.

Mustafa (2010) argues that, notwithstanding a democratic constitution, Kurdistan's problem is similar to the states of the former Soviet Union and the Eastern European countries where the government was controlled by the communist party. At that time, the powerful ruling parties of each country had offices in all the organs of government in order to be able to control the government and rule the country according to the will of the party and in its interests. These political parties established their organs in the form of a pyramid; it was a hierarchical system and final decisions were left to the head of the party. It could therefore be said that political interference is the main obstacle to the establishment of a good and democratic government in Kurdistan (Mustafa, 2010).

The above allegations have been made by Kurdish writers who suggest that, contrary to what is written in the constitutions, state institutions such as parliament, the executive and the judiciary have to some extent been paralysed by the powerful political parties (Qadr, 2007, pp.24–25; Karim, 2010a). They also suggest that due to the domination of these parties, the Kurdistan parliament fails to fulfil its vital role as a democratic institution and cannot serve as a bridge between state and society by carrying out its legislative, supervisory and representative functions in ways that strengthen good governance by adherence to the values of accountability, transparency and participation.

Apart from the domination of the three branches of government by the ruling parties, it has been argued that – due to a highly centralised executive and weak and inactive parliamentary, judicial and local government institutions – neither parliament nor the judiciary have been able to monitor the government and hold it to account for its actions. For some writers, therefore, reducing political domination, separation of powers and independence of the three branches of government are considered vital to the success of the KRG (Qadr, 2007, p.39).

Although the KRG took some practical steps towards the implementation of the constitution and improving the QoG, the effectiveness of these efforts has always been diminished due to the political influence over the institutions of governance. There are still serious concerns about specific aspects of judicial independence, such as the absence of a comprehensive law governing the judicial system, in particular to regulate



the appointment of judges, a code of conduct, conditions of service, and security issues.<sup>38</sup> This situation creates more opportunities for politicians and the executive branch to continue to influence the judiciary, and gives the courts no hope of obtaining power and the degree of independence necessary to uphold the rule of law and justice in society (Qadr, 2007, pp.213–216).

In Kurdistan there are also concerns about breaches of human rights by the main political parties. The parties in power carry out politically motivated unlawful arrests through the security services and intelligence agencies directly under their control (Amnesty International, 2009, pp.11–27). In an interview in February 2009, Dr Yousif Mohammad Aziz, the KRG's Minister for Human Rights, stated: "One of the biggest problems we face is the judicial system. The courts, judges and general prosecutors need to be reformed and some violations of human rights are even caused by the judicial system" (Aziz, 2009).

Another issue is that the Kurdistan executive branch is not working professionally, rather it is under the direct control and influence of the parties in power and the prime minister must refer back to them to receive instructions. Furthermore, parliament and the judiciary cannot play their part in fighting corruption because they are under the influence of the political parties. For the above reasons, officials and politicians can easily celebrate and form factions for their own benefit, contrary to the public interest (Qadr, 2007, pp.312–321). High-ranking officials and politicians promote their own

---

38 The 2005 Iraqi constitution embodies significant principles of judicial independence and equality before the law. For example, Article 19 clearly confirms the principles of an independent judiciary and supremacy of the law over the three branches of government. Article 19 states that:

First: The judiciary is independent and no power is above the judiciary except the law. Second: There is no crime or punishment except by law. The punishment shall only be for an act that the law considers a crime when perpetrated. A harsher punishment than the applicable punishment at the time of the offense may not be imposed. Third: Litigation shall be a protected and guaranteed right for all. Fourth: The right to a defence shall be sacred and guaranteed in all phases of investigation and the trial. Fifth: The accused is innocent until proven guilty in a fair legal trial. The accused may not be tried for the same crime for a second time after acquittal unless new evidence is produced. Sixth: Every person shall have the right to be treated with justice in judicial and administrative proceedings.

In this regard it appears that the Iraqi constitution took Dicey's view on the principle of the rule of law and opposition to the discretionary power of the government (Dicey, 1885).

interests rather than those of the public. Huge amounts of public funds are used by high-ranking politicians for themselves and their party's benefit. Members of parliament work for the interest of their political parties rather than of the people (Abdulrahman, 2012).

Based on the foregoing, some commentators are of the opinion that, although the KDP and PUK came to power through a free election in 1992, they failed to establish free democratic institutions to uphold the rule of law or to work for the public interest; rather they used public offices, parliament and the judicial system for their own benefit. It has been argued that the ruling parties considered corruption as a way of maintaining their power and as a system for controlling the state institutions for their political interests and therefore have no genuine political will for reform (Qadr, 2007, pp.314–321; Karim, 2010b; Qadir, 2007).<sup>39</sup>

In addition, a significant defect with Kurdistan's system of governance is the lack of an impartial and free press in the region, even though the Kurdistan Press Act 2008 provides for increased freedom of the press, printing and publishing. For example, Article 2 emphasises that the press should be free and no censorship should be imposed on it. Article 9 abolishes the use of prison sentences for journalists, allowing the courts to impose fines instead. Furthermore, Article 2 prohibits newspapers from being closed down unless by court order. However, what happens in practice is rather different. Many cases of newspaper and magazine closures and human rights abuses against journalists are regularly reported by both local and international organisations.

Freedom House<sup>40</sup> has prepared reports examining the state of freedom in some 193 countries and allocates each country a status of freedom – Free, Partly Free or Not Free – based on the degree of its achievements on key freedoms such as the press, assembly, and civil-political rights and liberties. According to reports from 2002 to 2015, Iraq is

---

<sup>39</sup> Details in the following chapters.

<sup>40</sup> Freedom House is an independent organisation founded in 1941. It works for greater political rights and civil liberties, and supports activists advocating human rights and promoting democratic change to develop freedom and democracy in the world. Freedom House's index is considered the best available empirical indicator of liberal democracy (Diamond, 1999, p.12). It issues annual reports examining the level of freedom in over 190 countries. Available from: <https://freedomhouse.org/about-us> [Accessed 3rd September, 2013]

considered one of the Middle Eastern countries (including Kurdistan) that are well-known for poor press freedom with a rating of “no free press”. The Political Risk Services Group (PRSG) issues a monthly International Country Risk Guide, which has been available for 135 countries since 1982. According to this, Iraq is one of 21 countries which have a dependent judiciary and media and non-competitive elections. Furthermore, PRSG publishes a Political Risk Index (PRI) ranking countries according to their political risk<sup>41</sup> from low to high as an overall measure of risk, using 17 components such as turmoil, financial transfer, direct investment and export markets. According to PRI reports between 2011 and 2015, Iraq has scored an average of 54, which is among the 15 most risky countries in the world.<sup>42</sup> In general, however, the status of freedom and human rights in Kurdistan is to some extent better than the rest of Iraq and stability and security issues in the region are much better than in the rest of Iraq (Freedom House, 2009–2014).<sup>43</sup>

### **Motivation for the Study**

This research has been undertaken for three main reasons. First, major pioneering studies on democratisation and QoG have focused on this issue from the theoretical point of view with not much attention given to the practical factors that either support or restrict the implementation of the democratic values mentioned in most modern constitutions. In particular, no attention has been paid to post-conflict transitional democracies in the Middle East.<sup>44</sup> While these research findings may hold true for the mature democratic

---

41 Political Risk Services Group prepares separate yearly reports on each country, assessing potential political, financial and economic risks to trade and business investments around the world. More details available at <http://epub.prsgroup.com/products/political-risk-services/country-reports> [Accessed 9th October, 2013]

42 See the Political Risk Index reports for 2011–2015. Available from: <https://www.prsgroup.com/category/risk-index> [Accessed 14th July, 2015]

43 Freedom House, Country Reports: Iraq (2009-2014) Appendix 1 Available from: <https://freedomhouse.org/country/iraq> [Accessed 4th December, 2014] See also Operational Guidance Note on Iraq, UK Home Office, 31st December 2013 Available from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/347518/Iraq\\_OGN\\_31\\_December-\\_22\\_August\\_2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347518/Iraq_OGN_31_December-_22_August_2014.pdf) [Accessed 4th May, 2014]

44 See, for example, Charron and Lapuente (2010), Norris (2006), Ogundiya (2010) and Chowdhury (2004).

countries due to their political and cultural backgrounds, similar studies may empirically give different results if applied to Middle Eastern states and, specifically, the Kurdistan context. Hence, this study is the first on the Kurdistan Region that aims to complement previous theoretical studies by analysing the factors that became obstacles to delivering the constitutions (provisions proposed in both the Iraqi and Kurdistan constitutions). This study pays particular attention to whether the current constitutions include provisions that support and improve the QoG and outlines the main obstacles to the implementation of these provisions in practice.

Second, although there are some recently published studies on democratisation, corruption and QoG in Middle Eastern countries, including Iraq,<sup>45</sup> several writers have attributed the causes mainly to materialistic factors and gave vague and imprecise descriptions for the phenomena in their writings.<sup>46</sup> While providing aggregated common and contrasting trends at country level, such studies lack analysis of state-specific detail and influencing factors such as regional constitutions and political problems specific to a state like Kurdistan. However, these studies are conducted in the context of sovereign countries, not in a self-governing state which is part of a federal country, such as Kurdistan in Iraq. Furthermore, this study examines other indicators that are unique to Kurdistan as an example of a state in transition. This makes the study topical and relevant to the development of constitutional democratisation and QoG in transitional states. This study also pays particular attention to the forms and causes of corruption and refers to the main strategy for fighting corruption, which is very significant for improving QoG in the region.

Third, the inclusion of an analysis of implementation of democracy as stated in the constitutions provides an empirical contribution that has value in and of itself, because Kurdistan serves as an interesting subject for this form of investigation, particularly following the collapse of the regime of Saddam Hussein in 2003. It is generally more appropriate to investigate the role of democracy in improving QoG in this type of environment, which has rapidly progressed into a democratic society, to understand the main barriers to implementing the constitutions and to explain why the Kurdistan Region

---

45 See, for example, Debiel and Terlinden (2005).

46 See, for example, Kelly (2010), Zebari (2013a) and Jawad (2005)

remains categorised as a semi-democracy or a society in transition, despite having democratic constitutions and a 24-year struggles to practise democracy in the region.

### **Significance of the Study**

In summary, this research is significant from both an academic and a practical perspective. Starting with the theoretical contribution, as has been previously outlined, democracy and QoG has been the subject of an abundance of scholarly literature. Attention has been mainly devoted to analysing the influence and importance of constitutional law, democratic transitions and the impact of democratisation on QoG. However, the factors that support or restrict the application of democratic provisions on the ground (in particular those factors that could produce QoG) have not been studied in detail. It is now possible to see a growth in scholarly literature dedicated to democracy and QoG in general terms, and some theory exists, but this field is still relatively new, and few, if any, studies have focused on implementation and the practical side of the issue. This study aims to contribute to the adoption of a framework in a different context – first, in the form of the practical impact of democratic principles (as proposed by the constitution) on QoG in a regional state such as Kurdistan, and second, by outlining both the supporting and restricting factors on the process of implementing the constitution on the ground. Consequently, this thesis can point to the main defects in the system of governance in Kurdistan and can offer some recommendations for reform of the system.

The aim of this study is not only to assist the government in establishing QoG in the region, but also to lead to new, more effective policy measures aimed at reforming procedures in the region. Furthermore, this study aims to increase citizen awareness of QoG, and to develop the democratic process and grass-roots monitoring that can provide incentives for politicians to take action in terms of reforms to improve the quality of service for the public.

### **Research Objectives**

The ambition behind this study is to examine the Iraqi and Kurdistan constitutions to assess whether they are viable and supportive to the process of democratisation and improving QoG. Democracy in the broad sense (such as public participation in decision-

making, human rights and elections) has been shown to be better able to produce good governance than democracy in the narrow sense (such as mere elections). This study investigates whether the Iraqi and Kurdistan constitutions represent the broad meaning of democracy or only the concept of electoral democracy. Furthermore, this study advances the understanding of the impact of the implementation of a democratic system on improving QoG and the difficulties transitional countries may face.

By explaining the above question, this study attempts to answer the main question guiding this research: “why was the government unable to deliver the constitution’s provisions in order to produce QoG?”. In particular, it examines whether the problem is with the political system proposed in the current constitutions or with the implementation of the constitutions in practice.

This study also seeks to develop an analytical framework that proposes an assumption that the implementation of democracy in the broad sense can achieve a better quality of governance. The analytical framework implies an assumption that there is a relationship between the implementation of constitutional law (the independent factor) and QoG (the dependent factor). It aims to find causal relationships, as well as logical relationships, between the variables. The first group of variables represents the principles of democracy (as mentioned in Iraqi/Kurdistan constitutional law) such as free and fair elections, the rule of law, separation of powers, transparency and human rights; the second group relates to state institutions such as the judiciary, parliament, the various government organs, the media and civil society; the third group relates more directly to the outcomes of implementation of the democratic principles, such as on accountability and quality of government; and the fourth set of data relates to obstacles to the enforcement of the constitution such as natural resources, social culture and political monopoly. Naturally, these outcomes are interrelated and not mutually exclusive, but they cover sufficiently distinct concepts that this research argues that it is important to study all four in a state like Kurdistan in order to answer the main question and explain why the relevant provisions of the constitution are not being delivered.

Developing an analytical framework for the implementation of the constitutions involves several steps, namely:

1. The dependent and independent factors in democratisation and QoG have been conceptualised;
2. A specific set of democratic principles mentioned in the constitutions have been reviewed and explored in order to see whether, and if so to what extent, they play a part in improving QoG in Kurdistan and to identify the most significant and fundamental democratic principles that need to be practised in Kurdistan to improve QoG;
3. The factors preventing implementation of the constitutions have been identified; and
4. Recommendations for reform of the system of governance have been put forward.

Another aim of this paper is to develop an analytical framework so that the overall findings of the study can contribute to a better empirical understanding of the relationship between the enforcement of constitutional law and QoG and the factors that affect the application of the constitution in other transitional societies with similar political, social and cultural backgrounds. The answers to these research questions are thus analytically constructed from a collection of data that reflects empirical reality. The findings of this study can therefore be considered as a theoretical model of reality, which is developed through generalisation and simplification.

In particular, this research sets out to answer the following research questions:

- What does the Iraqi constitution state about democracy and QoG, what are its objectives and institutions, and is it fit for purpose?
- What is the interaction between Iraq and the KRG, and how do they impact upon one another in relation to the implementation of the constitution and QoG?
- What does the current literature reveal about the issues/problems that might arise during the democratisation process?
- What are the factors restricting the process of enforcement of the constitution that lead to QoG in the context of Kurdistan?
- What process of reform is necessary to deliver the constitution in order to achieve a better QoG?

As is often the case in research, the initial idea of this study was to find a way of reforming the public sector in Kurdistan by examining the failings in the implementation of the constitution and the changes required for a better QoG. Another motive was an interest in what obstacles might prevent the implementation of democratic principles set out in the constitutions. This interest was inspired by the growing understanding, among scholars as well as policy-makers, of the critical role played by the state in creating an enabling environment in the light of the constitutions for the development of democratisation and reform in the public sector.

When this research began, the researcher had a vague idea of the nature of the relationship between democratisation and QoG, based on the belief that democratisation in any shape or form might improve QoG and the institutional framework that enables innovation and development. During the research process, this study found that the relationship might be intertwined in complex ways and differ from one country to another, but the study initially lacked the concepts to clarify them. In the first stage of the research process, literature about Kurdistan was reviewed including historical and political background and the current constitutions and institutions of governance in Kurdistan. In addition, the concepts of constitution, state, democracy, democratisation and quality of governance were identified. These background studies were very beneficial to obtaining a wide knowledge and thorough understanding of the subject area of the study and for the study to be conducted in a more academic way, allowing relevant valuable data to be collected and, in particular, increased confidence in deciding who to interview and what questions to ask the interviewees to obtain answers to the research questions of this thesis.

Although the research questions are designed to explore the causes of the failure to implement the constitutions in the governance institutions of Kurdistan, the purpose of this study is broader than that. This thesis is set in a wider context, taking into account at least other similar post-conflict federal states. Since 1992, Kurdistan has had democratic elements built into the state that make this a highly desirable country to investigate. Kurdistan is the chosen region of research in this thesis as a laboratory where the question of the interrelationship between the implementation of democratic principles proposed by the constitution and QoG can be tested and the obstacles to the



implementation of constitution explored. In this context, this study explores the fundamental principles of democracy which are significant for good governance in any country, and the barriers to the implementation of these principles, in particular by considering the nature and extent of the misuse of power by officials and politicians in Kurdistan.

Chapter 1 explores the background of Kurdistan and the nature of enquiry of the study. Chapter 2 deals with the methodology and research design, and explains why particular methods were chosen. Chapter 3 outlines the elements that support the emerging themes from the interviews, triangulation method that used in the research, the key findings from the Interviews, and the research framework. Chapter 4 focuses on the fundamental role of constitutional law, particularly in the constitutions relevant to Kurdistan (the Constitution of Iraq 2005 and the Draft Constitution of Kurdistan 2009), and discusses ways in which the constitutions can achieve their aims. Chapter 5 outlines some essential concepts closely connected to the implementation of constitutional law, such as the concept of state, democracy and QoG, and also explains the interrelationships between these concepts. Furthermore, it outlines whether, and if so to what extent, democracy can play a part in improving QoG in Kurdistan and attempts to identify the most significant and fundamental democratic principles that could be implemented in Kurdistan to improve QoG. In order to be able to provide a clearer analytical framework for the implementation of constitutions in Kurdistan, the chapter also investigates whether existing institutions, such as parliament, the judiciary, political parties, elections and civil society, are sufficient in their current form for implementing the constitutions in the region. Chapter 6 deals with corruption as a symptom of bad governance, providing some general background on corruption, in particular definitions, its history, potential forms, the level of corruption, and its main causes in the region. Chapter 7 outlines the factors that affect the process of democratisation and QoG, because many factors can influence the process – such as natural resources, culture and social structure, the type of political system, development of democracy and the economy, international factors, national security problems and the lack of a legally binding regional constitution. All these factors may influence change in governing state institutions and reshaping the political system. From what has been found throughout the discussions in the above chapters, as a last step Chapter 8 makes recommendations for reform in the system of governance. These reforms are required to implement the constitutions in order to

improve the quality of governance in the region. Finally, Chapter 9 summarises the core arguments of the study and outlines conclusions that can be drawn from the research and its potential effects on implementing the constitutions in Kurdistan. It also provides some recommendations for further research in the field.

## **Chapter 2**

### **Research Design and Methodology**

This chapter explains the methodology, research design and the relationship between data and theory that is most appropriate for this study. The chapter focuses on the different methods that may suit the purposes of the thesis, why particular methods were chosen, how the methods of qualitative interviews were deployed throughout the research, and how validity and reliability were maintained.

#### **Qualitative vs Quantitative Methods: Why This Study Uses the Former**

Marsh and Furlong (2002, p.17) argue that it is important to determine whether the research is qualitative or quantitative as this will affect the theoretical and methodological choices the researcher makes.

This study investigates the impact of democratisation – as outlined by the constitutions – on QoG in the Kurdistan Region but also aims to compare the results with other similar post-conflict states. It is therefore crucial to weigh up carefully which approach should be taken. When investigating relatively uncharted ground, as this study does by posing the central question “Why could the constitution not be delivered in Kurdistan in a way that produces a better QoG?”, an in-depth method can support gaining a full picture of possibilities, problems and priorities, based on the perspectives of relevant actors (Gomm, 2004, pp.150–1).

Quantitative and qualitative methods have different strengths and weaknesses. Either could be utilised depending on the nature and aims of the research. For example, when open-ended research questions consist of different types (such as why, what and how), the qualitative approach gives the researcher a better understanding of the research problems and provide more comprehensive answers to the research questions (Punch, 2014, pp.16–17).

This study seeks to discover the reasons offered by interviewees about why the KRG could not enforce the constitution in practice, hence qualitative approaches may be appropriate. Qualitative investigation in this study can increase its explanatory capability by making reference to theoretical, political, historical and other levels of analysis (Lindlof, 1995, p.163). It gives the study more credibility by making theoretical assumptions apparent and by giving a clear consideration of the research process from start to finish, including data collection, data analysis and conclusions (Silverman, 2013, pp.97–99).<sup>47</sup> This study carefully provides a thorough theoretical framework which is intended to clarify the background to the study as well as the concepts and themes which developed during the study and guided the study throughout.

Through qualitative methods, this study will be able to explore in greater depth the main research question by asking the interviewees “why?”, “what?” and “how?” to gain more insight and produce deeper, more academic and reliable outcomes (Silverman, 2013). This research therefore utilises qualitative methods, which permits a better understanding of social or political phenomena by understanding people’s personal experiences and the explanations they offer for the social and political situation (Devine, 2002). The qualitative method is the preferred methodology for this study since it aims to draw some of its conclusions from the understanding and experiences of relevant people such as politicians, civil servants, officials, academics and judges. Consequently, this method reveals more in-depth answers to the research questions: “Why could the KRG not implement the constitutions in such a way that QoG was improved?”, “What are the main obstacles to implementation of the constitutions?”, and “Could the KRG overcome these obstacles?” This study concentrates on the quality and significance of what was said rather than on numbers and statistics, hence the qualitative approach is the more suitable method category (Silverman, 2010).

Qualitative methods may be considered as inductive rather than deductive because hypotheses and theories are allowed to arise from the data rather than being imposed

---

<sup>47</sup> Quantitative research can support using questionnaires, and collecting large amounts of data quickly and at relatively low cost. Moreover, comparisons can be made quickly to give concise results. Despite these advantages, this study does not use the quantitative method as, in quantitative questionnaires, respondents do not necessarily report their true beliefs and attitudes, and also cannot give details openly, which is very important to this study (Robson, 2011).

externally by the demands of the research system (Sayer, 1984).<sup>48,49</sup> However, this study prefers an abductive approach as, generally speaking, abduction in qualitative research is considered more realistic because it can facilitate the identification of two interrelated issues.<sup>50</sup> First, an abductively derived statement needs to be confirmed by deductive and inductively sourced evidence if it is to “hold” while, in a qualitative study, this is obviously problematic. Second, difficulties in deciding between alternative credible hypotheses (for example, relevant theme, code, variable and category) are outlined by testing the “‘generality problem” (Punch, 2014). This research utilises an abductive approach as part of a qualitative data analysis, especially in the determination of themes, codes and categories, as this allows the researcher’s own observation of the context. It uses existing theories that are important to gain a better understanding of the factors that are obstacles to the implementation of the constitutions. It also explores the reforms required for the application of the constitution using achievable and practical methods in order to produce a better QoG in Kurdistan.

Thus, this study examined existing knowledge about good governance, democratisation, the model of democracy proposed by the constitution and the impact of its implementation on improving QoG. The established theories that are considered suitable for broadening the understanding of existing knowledge about the impact of democracy on the QoG were considered to develop the conceptual framework required for the analysis in the study. The conclusions generated from this analysis will serve as the

---

48 In an inductive approach the researcher begins the study without a pre-established theory and instead uses his/her own observations and knowledge of the empirical context as the starting point to detect patterns, formulate some provisional hypotheses, and finally develop broader generalisations and theories. Furthermore, the inductive approach is, by its nature, open-ended and more exploratory, in particular during the early stages.

49 A deductive approach is used when the researcher aims to examine a logically derived hypothesis, based on limited prior literature about how the empirical framework is formed. Deductive reasoning involves inferring that, if propositions A and B are both true, then C is also true. Thus, in a deductive method, the researcher starts from theory and enters the empirical context to examine the validity of that existing theory. The present study does not use deductive reasoning because it is narrower and is generally used to test or confirm existing hypotheses (Alvesson and Sköldberg, 1994).

50 An abductive approach is the combination of induction and deduction. Here, the researcher starts by observing the empirical framework and then looks at those existing theories that he considers suitable for increasing the understanding of the issue (Alvesson and Sköldberg, 1994).

foundation for the development of an understanding of the main obstacles to implementation of the constitutions and to propose achievable and practical methods of reform in such a way as to produce a better QoG in Kurdistan. This will enable an exploration of the gap between ideas as embodied in the constitution and what can be seen on the ground in practice in Kurdistan.

### **Access to Interviewees and Sampling Method**

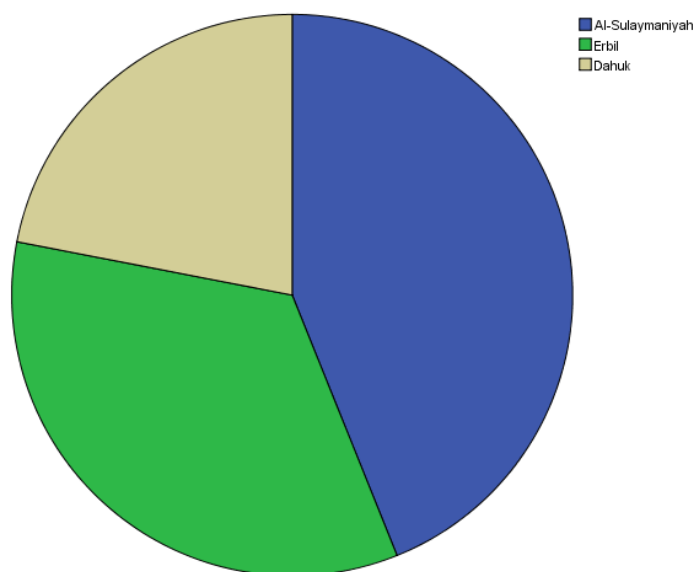
The purpose of the interviews was to glean attitudes and opinions on QoG in Kurdistan through the use of a representative sample of relevant people. Interviewees were selected in two ways. First, and at the start, my personal contacts. Second, after a couple of interviews had been conducted, the snowball method came into operation, whereby each interviewee was asked whether they had any further contacts who might be of use in the study and willing to participate (Teorell and Svensson, 2007, pp.86–7). Burnham notes that this technique consists of “starting out with a few key informants and then asking them to name other key individuals relevant to the study” (1992). Using snowballing methods – strategically choosing the next interviewee with the help of the person being interviewed – enabled the researcher to get in touch with the key people in the study’s subject area (Teorell and Svensson, 2007).

Although this study used snowball sampling, it also sought to obtain samples from all regions to represent all the people. As mentioned in the Introduction, Kurdistan has a population of 5.2 million (Sulaimaniyah 2.3 million, Erbil 1.7 million and Dohuk 1.2 million). The sample was selected according to the size of the population of each province. Thus, of a total of 41 interviews, 18 interviewees were from Sulaimaniyah, 14 were from Erbil, and 9 from Dohuk.

Figure 2: Interviewees’ city of residence

		Frequency	%	Cumulative %
	Sulaimaniyah	18	43.9	43.9
	Erbil	14	34.1	78.0
	Dohuk	9	22.0	100.0

	Total	41	100	
--	-------	----	-----	--



Depending on the size of the sample and the aim and design of the research, there are various methods for determining what questions should be answered in advance by which participant. One popular approach is “probability sampling”, as adopted by Punch (1998). According to this approach, every individual should be given an equal probability of being included (Zikmund, 2000, p.45). The rationale behind this approach is to give opportunities for each relevant case to represent the variety of cases likely to occur and, consequently, the research outcome may be extrapolated to the broader population.

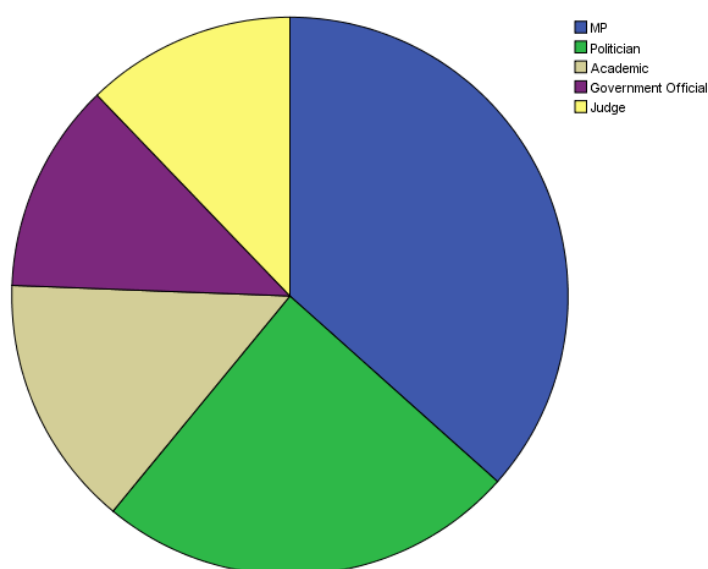
Although probability sampling is significant, it was not appropriate for this research, because it is difficult to conduct qualitative in-depth interviews with a wider population. Instead, this study deemed it more appropriate to use a “non-probability sampling”, which depends on relevance to the research field and the availability of the interviewees. Punch (1998) referred to this approach as “convenience sampling” as this gives the researcher more flexibility to use available interviewees that fit the purpose of the research.

In order to improve both the reliability and the validity of the research, the sample among the relevant people was diversified. The best people with certain experiences and positions were selected, although the sample selection was to some extent random. The

reasoning behind such a selection is based on the fact that the aim of the research is to explore the attitudes and perceptions of those participating in the decision-making process. This means that some demographic variables such as age and social class have no bearing on the sample. The intention was to produce a representative sample that is as close as possible to the real political and social life of the Kurdistan people. The sample selection is outlined in figure 3.

Figure 3: Interviewees by profession

		Frequency	%	Cumulative %
	Member of parliament	15	36.6	36.6
	Politician	10	24.4	61.0
	Academic	6	14.6	75.6
	Government official	5	12.2	87.8
	Judge	5	12.2	100.0
	Total	41	100	

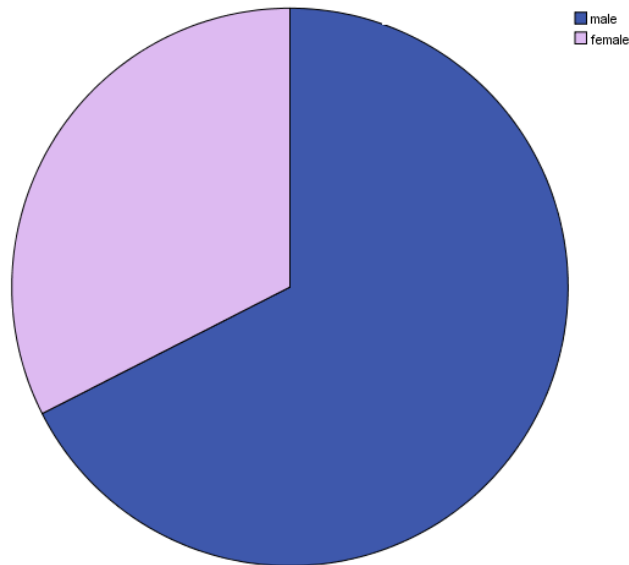


This study attempted to maintain a balance between males and females; however, this was difficult due to insufficient female representation in the political and administrative arenas in Kurdistan. Ultimately, about one-third of interviewees were female, and two-thirds male.



Figure 4: Gender of interviewees

		Frequency	%	Cumulative %
	Male	27	65.3	65.3
	Female	14	34.7	100.0
Total		41	100	

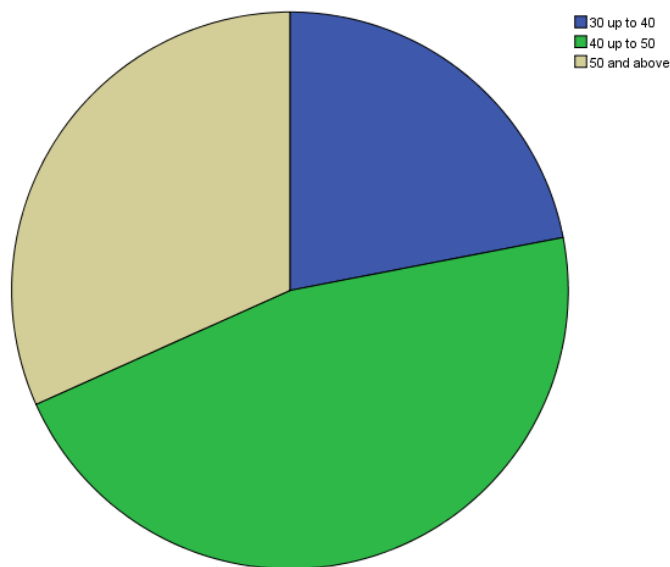


The majority of interviewees (19) were between 40 and 50 years of age. Thirteen of the interviewees were aged 50 and over and the rest between 30 and 40 years old. None of the interviewees were below 30 years of age.<sup>51</sup>

Figure 5: Age of interviewees (years)

		Frequency	%	Cumulative %
	30 to 40	9	22.0	22.0
	40 to 50	19	46.3	68.3
	50 and above	13	31.7	100.0
	Total	41	100	

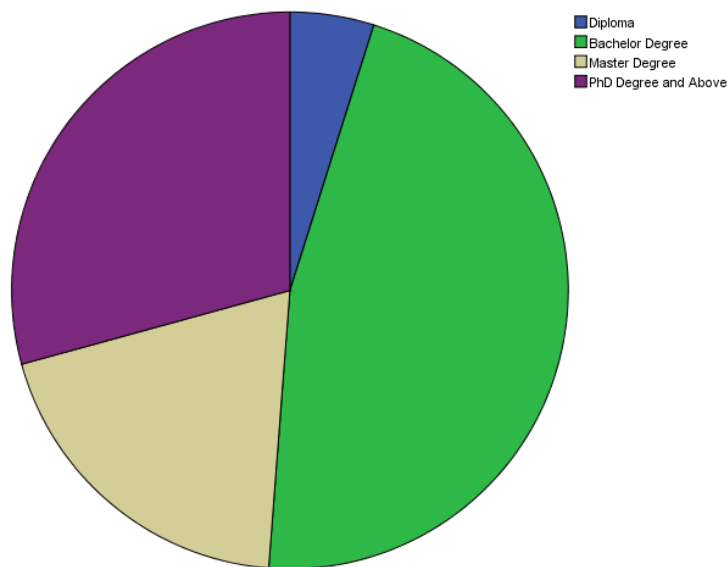
<sup>51</sup> Although demographic variables such as age and social class are irrelevant to the sample, this information is provided in order to reflect the appositeness of the methodology.



Education is a significant variable that affects a person's attitudes and understanding of any particular issue. It was therefore imperative to determine the educational background of the interviewees. As explained in figure 6, the largest proportion (about 46.3%) of interviewees were educated up to Bachelor's degree level, 29.3% to PhD level or higher, and 19.5% to Master's level, while only a relatively small number (4.9%) held diploma degrees. None of the interviewees had educational attainments lower than diploma level. As this study concentrated on the quality of the interviews rather than their number, the experience, skills and qualifications of the interviewees were considered to be important to the reliability of the findings.

Figure 6: Interviewees' level of educational qualification

		Frequency	%	Cumulative %
	Diploma	2	4.9	4.9
	Bachelor's degree	19	46.3	51.2
	Master's degree	8	19.5	70.7
	PhD degree or higher	12	29.3	100.0
	Total	41	100	



In order to obtain the opinions of people of various backgrounds and to maintain a balance to achieve greater reliability, the researcher interviewed people from various political backgrounds as well as those claiming to be politically neutral. As explained in figure 7, more than two-thirds of interviewees were members of one of the five main political parties in Kurdistan and just under one-third were independent. This is due to the fact that the majority of those interviewed were MPs and political leaders.

Figure 7: Political background of interviewees

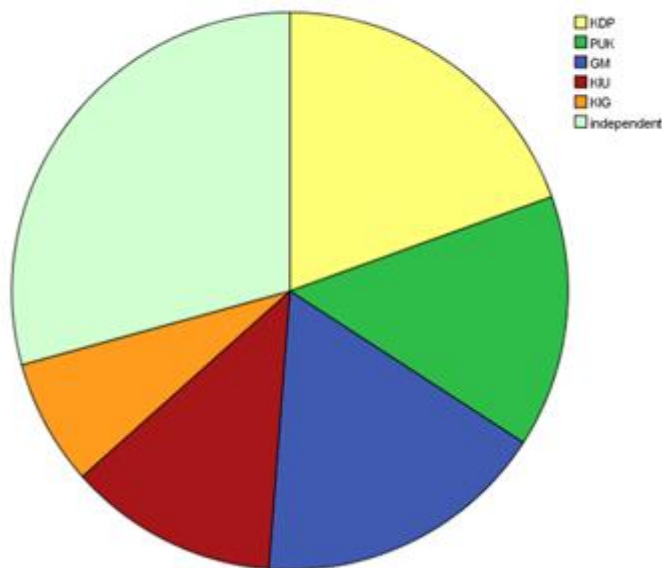
		Frequency	%	Cumulative %
	KDP	8	19.5	19.5
	GM <sup>52</sup>	7	17.1	36.6
	PUK	6	14.6	51.2
	KIU <sup>53</sup>	5	12.2	63.4
	KIG <sup>54</sup>	3	7.3	70.7
	Independent (Neutral)	12	29.3	100.0

<sup>52</sup> Movement for Change

<sup>53</sup> Kurdistan Islamic Union

<sup>54</sup> Kurdistan Islamic Group

	Total	41	100	
--	-------	----	-----	--



## Limitations of Samples

Howard S. Becker states

How many qualitative interviews is enough? Every experienced researcher knows this question has no reasonable answer, no magic number you can do and then you're out of danger. The only possible answer is to have enough interviews to say what you think is true and not to say things you don't have that number for. (Baker and Edwards, 2013, p.15)

In relation to sample size, a qualitative study differs from a quantitative. Quantitative study emphasises numbers and seeks to gather information from a large number of people and to objectively analyse correlations between them in order to understand and predict what people do. Qualitative researchers focus on fewer people in more depth to understand people's attitudes and subcultures, and their understanding of and explanation for the world around them and to understand why people perceive, interpret and interact the way they do.

Qualitative researchers cannot predict in advance how many people they should interview or how much data they need to gather through interviews.<sup>55</sup> They therefore usually gather data until empirical saturation is reached (Glaser and Strauss, 1967). In this context, Bowen et al. (2010) employ a criterion to determine whether the relevant level of saturation is reached or not. An initial sample of ten is followed by a further three in order to determine whether any new themes will emerge – if so, the researcher may decide to continue. However, Warren (2002) suggests that a minimum sample size in qualitative researches needs to be between 20 and 30 interviews (Bryman, 2012, p.425). By contrast, Gerson and Horowitz (2002, p.223) argue that anything less than 60 interviews may not support cogent findings and anything more than 150 may produce too much data that becomes difficult to be analysed effectively. Contrasting these ranges (20–30 versus 60–150) clearly shows that there is no agreement among scholars about the minimum interview sample requirement in qualitative research and that everything depends on the nature of the research, the topic and the population from which the sample is taken (Bryman, 2012, pp.425–7). By interviewing 41 people, the present research ensures that a sufficient sample size was achieved. However, this number was not pre-planned and the researcher simply reached this figure as saturation was achieved within the scope of the work.

As shown in figure 7, in this research 41 interviews were conducted, 15 of which were with MPs, ten with high-ranking politicians, six with academics, five with high-ranking government officials and five with judges. Where possible, the researcher tried to interview the number of MPs proportionate with the number of seats held by each party. The 15 MPs interviewed represented the views of different political parties. Among this number, five MPs were from KDP (of 38 seats held by that party), four from GM (24 seats held), three from PUK (of 18 seats), two from KIU (of ten seats) and one from KIG (of six seats).

---

<sup>55</sup> One of the factors for the two approaches to using different sizes of sample is the fact that, prior to starting research, quantitative researchers have finite hypotheses and ideas in mind, trying to verify these through deductive approaches. However, qualitative researchers generally work to understand the issues under investigation, and are more open-ended and often directed in unexpected ways by emergent experimental and conceptual outcomes.

The study targeted five of the nine political parties represented in parliament in the three provinces of KRG.<sup>56</sup> The researcher interviewed two high-ranking politicians<sup>57</sup> from each party. The criteria for choosing these parties were based on three considerations. First, to be included parties must have participated in every general election (since their inception, in some cases). Second, the five main parties listed above are the largest parties, winning over 95% of parliamentary seats in the previous elections, and represent the majority of voters in Kurdistan. The majority of interviewees are members or supporters of one or other of these parties. Third, nearly all these parties represent the ruling parties or the opposition and are closely related to the challenge of democracy and political arrangements in the region, which is the focus of this research. The strategic choice of districts was guided by an idea to include all five parties represented in the districts, the availability of interviewees, and the rational use of available resources and time.

### **Triangulation of Methods and Perspectives**

Cohen et al. (2000) define triangulation as a method of using of two or more sources of data collection in the investigation of human behaviour. Triangular approaches in the social sciences can put forward valid and better understanding of human behaviour by studying various sources (ibid.).

In this study, semi-structured interviews and documents of various forms were used as sources of data. It is not sound to rely on interviews alone because human interaction may create bias due to differences between the interviewer and the interviewee, or the

---

56 The other four political parties, each of which obtained only one seat in parliament in 2013, are: Kurdistan Islamic Movement, led by Erfan Abdul Aziz; Kurdistan Socialist Democratic Party, led by Mohammed Haji Mahmud; Kurdistan Communist Party, led by Kamal Shakir; and Kurdistan Toilers' Party, led by Khalid Zangana. These parties were excluded from the study because they account for only 4% of seats in parliament. In addition, the KRG specified 11 seats for the minority religious and ethnic groups in Kurdistan. These include: Turkmen Development List, Erbil Turkmen, Turkmen Change and Renewal, Iraqi Turkmen Front, Turkmen Democratic Movement, Assyrian Democratic Movement, Chaldean Syriac Assyrian Popular Council, Sons of Mesopotamia, Berunt Nissan Markos and Aram Shahine Dawood.

57 In this study "high-ranking politician" means a member of a political committee or headquarters, the highest office responsible for making decisions and deciding strategy for political parties in Kurdistan.

topic of the study (Cohen et al., 2000) To minimise the risk of bias, interviewees were given opportunities to express their own opinions free of influence. Discussions lasted until the researcher felt that every topic had been reasonably covered or until the interviewees had nothing further to add.

To enhance understanding of the study, a distinction should be made between the sources of data obtained.

### ***Primary sources***

The main primary source was the data collected directly by the researcher from the 41 qualitative interviews, which was subsequently tabulated, examined and analysed.

Official documents, legal documents, court records and statistics were used to obtain information on the current governance situation in Kurdistan and to support the overall argument and conclusions reached.<sup>58</sup>

### ***Secondary sources***

This study analysed secondary sources such as books, journal articles, studies presented in seminars and conferences, and reports, statistics and documents issued by governmental, non-governmental and international organisations such as Human Rights Watch, the Kurdistan Institute for Human Rights, the World Bank, Freedom House and Transparency International.<sup>59</sup> Some of the data was in Kurdish (translated into English where quoted, otherwise analysed directly from the Kurdish texts). This data helped to build the research questions and hypotheses. Analyses and discussions were guided by

---

<sup>58</sup> Links to all KRG ministries are available on the official website of the KRG at <http://cabinet.gov.krd/p/p.aspx?l=12&p=228>. However, it should be mentioned that collecting data in Kurdistan is difficult in terms of time, availability and convenience due to the fact that official documents, statistics and reports published by the government are not easily to hand and data is not made available to the public on the grounds of security.

<sup>59</sup> It is difficult to get much relevant data on Kurdistan due to the shortage of books and research articles in the subject area. However, some valuable articles and books were discovered that discussed the problems in the governance system, democracy and the public service.

the interpretation gleaned from secondary sources.<sup>60</sup> In this thesis, documentary evidence and existing literature served to “fill the gap” that arises from the data yielded by the semi-structured interview. The data collected for this thesis through interviews and secondary source materials was triangulated and cross-checked to enhance the validity of the interpretations (Walford, 1994).

Triangulation is especially important in elite interviews because, as noted by Walford (1994) in particular, elite policy-makers (politicians and officials) have their own agendas that they want to express through the interviews; hence, what they disclose may not always be significant in terms of the study. The researcher cannot, therefore, rely solely on findings from interviews with elite participants. It is necessary first to interview other people such as judges, experts and academics, and then to compare the findings with data from alternative sources by undertaking secondary research into policy documents. This is to be cross-checked through interviews in order to establish more reliable findings (Jankowski and Wester, 1991).

### *Types of interview*

Qualitative interviews have the benefit of allowing the interviewer to observe both the verbal and non-verbal behaviour of the interviewee as well as allowing a higher degree of mutual understanding of the meaning of the questions and answers (Punch, 2014). This is especially important when researching the sort of highly politicised issues found in a socio-political study. Interviews of this nature also allowed a deeper treatment of topics that were sometimes dealt with in a cursory way by the Kurdish press, as one of the purposes of this study was to collect information about the attitudes and expectations of those working in the public sector, namely MPs, governing state politicians, judges as guardians of the law and regulations, and journalists and academics who closely monitor governance in the region. In other words, the most appropriate research technique to use in studying decision-makers and the decision-making process was that known as elite interviewing (Burnham et al., 2004).<sup>61</sup>

---

60 This will be discussed in detail in the following sections.

61 The purposeful sampling approach is a method of selecting interviewees based on their level of expertise in the subject field and/or their qualifications (Fogelman and Comber, 2002).



There are three different interview designs:

1. Unstructured interview: Here, the interview may be entirely open and flexible; the interviewer can ask broad, open questions, and the interviewee can answer freely, giving his/her opinion on how he/she perceives the issue. Consequently, the interviewee is allowed to paint his/her own subjective picture of the reality as he/she thinks fit. Unstructured interviews are preferred when the investigator has insufficient information on a phenomenon and is therefore not able to ask relevant questions. This study did not use this interviewing method because the researcher had an idea about what he wanted to ask. In addition, in an unstructured interview there is a risk of straying too far from the topic, which could lead to the collection of irrelevant data (Silverman, 2013).
2. The fully structured interview. Here, the interviewer asks pre-formulated questions in the same predetermined order. Consequently, the experiences of the interviewee are not significant during the interview.
3. The semi-structured interview. In this case the interview generally has a framework of themes to be explored through pre-prepared questions that may be expanded as the interview proceeds (Silverman, 2013).

In this study, the semi-structured interview allowed the researcher to create a list of specific topics that needed to be covered. The researcher became well-informed during the interviews, while at the same time the interviewee was given the opportunity to express him/herself freely and give a more in-depth description and explanation of the research. The semi-structured interview was also preferable because it was flexible, and open-ended questions sometimes resulted in answers that led to new thoughts and, hence, new questions, providing valuable information and further in-depth discussion of the topic (Silverman, 2013).

In semi-structured interviews, the interviewer asks only one question at a time and the questions are clearly formulated to minimise the risk of misunderstanding. In addition, in this study, as advised by Merriam (1998), the interviewer remained neutral, respectful,

non-judgemental and independent to the extent that the interviewees' responses might contradict the interviewer's own values. This type of method made the interviews less formal.

### ***Interview questions and procedure***

The objective questions of the study which directed the research design and the choice of methodology were as follows: 1) descriptive questions to find out what is currently going on in relation to governance in the KRG; 2) explanatory questions to outline why the KRG failed to implement the constitutions in the last decade; and 3) what reform is required? Notwithstanding this, part of the analysis is explanatory in the sense that it tries to explore the relationship between the implementation of constitutions and their effect on QoG and the failings within the governance system in the KRG. This study seeks to understand the phenomenon, to investigate it, and to suggest some remedy for the problems.

In this research two sets of semi-structured interview questions were used.<sup>62</sup> The first set was designed for use with all interviewees to find out whether relevant people acknowledged that there was a problem with the current system of governance and the implementation of the democracy model proposed by the constitution. The second questionnaire included questions tailored to different interviewees according to their area of expertise and profession.

The interviewees were asked about the reasons for the gap between what the constitution says in theory and what one can see in practice, the failings in the current system of governance, obstacles to the reform process, and their recommendations for reform. Most of the interviewees targeted were chosen for their special fields of knowledge and positions of authority. The questions were aimed at obtaining information from interviewees regarding their opinions, experiences and views on both the democratic process and functions of governance institutions, and the difficulties the interviewees faced in carrying out their functions. However, there was a good deal of flexibility in these questions, allowing further probing where appropriate.

---

<sup>62</sup> A sample of the interview questions appears in Appendix II.

While many of the individuals approached were friendly, spoke frankly and were interested in the subject area of the study, almost 25 people (in particular the MPs and politicians from the ruling parties) refused to participate in the interviews without stating particular reasons, but some of them said that they had no time to participate.

Data collected during the interviews was digitally recorded and some notes were taken in the researcher's personal journal.<sup>63</sup> Following Merriam's advice (1998), the interviews were voice-recorded. One advantage of this is that it was possible later to listen to the words used and the intonation as often as desired. Furthermore, during the interviews, the interviewer could concentrate on the answers as he did not have to take detailed notes.<sup>64</sup>

Collis and Hussey (2003) suggest that interviews for the purpose of research could be conducted face-to-face, screen-to-screen or voice-to-voice. In this research, video chat on Skype and telephone interviews were used, with care taken to create a comfortable atmosphere in which the interview would go ahead naturally, more like an ordinary discussion than a strict "question-and-answer"-type of interview. Video chat and telephone interviews were preferred in this research for the following reasons. Face-to-face interviews are time-consuming and costly. The researcher would have to travel long distances to different cities and towns. In addition, face-to-face interviews with high-

---

63 The researcher obtained the full consent of participants before recording the interviews.

64 According to Merriam (1998), there are three different ways of recording interview data:

Tape recording: this is the most common technique and most appropriate method for recording interviews. This method allows the interviewer to replay everything said during the interview and to preserve it for analysis. The researcher has the opportunity to observe his own efforts, enabling him to improve his skills for subsequent interviews. The disadvantages are the risk of malfunctioning equipment and the possibility of the interviewee feeling uncomfortable in front of a tape/digital recorder.

Take notes during the interview: this method is recommended only when the researcher not been allowed to use a tape/digital recorder for some reason, as it is impossible to write down everything that is said and important information may therefore be lost. The pace of the interview may also decrease because the interviewee may wait for the interviewer to finish writing. This may push interviewees to make their answers shorter to increase the pace.

Writing up straight after the interview: the interviewer writes down as much as he/she can remember directly after the interview; depending on the memory of the interviewer, many important data may be lost, making this the least desirable method.

ranking politicians, officials and judges are very difficult to organise, as they are busy and have no time to spend with the researcher. Conducting interviews via video link or telephone is easier and can be arranged at a time convenient to the interviewee without requiring a specific location. The interviewee can choose any suitable location such as home, workplace or library.

The data collected through interviews is anecdotal and answers were often given in a variety of ways by different interviewees. All questions were written in English and translated into Kurdish, since the intention was to conduct the interviews in Kurdish.

From conversations and discussions with the interviewees, it became clear that they had much to say about the topics in question, and some of them were willing to talk about the issues in great detail. Most sessions lasted between 45 and 90 minutes. Seven interviews took between one-and-a-half hours and three hours (some of these required more than one session, with each session lasting about 50 minutes). All the interviews were conducted and translated between March and December 2013.

Finally, it should be mentioned that my personal experience of Kurdistan's politics and culture and my direct contacts with and access to some of the interviewees helped the study to be more credible and reliable. For example, my personal knowledge of culture, tone of voice and gestures of Kurdish people made it much easier for me to understand the interviewees' responses.

### **Ethical considerations and challenges**

When conducting qualitative interviews, it is vital to deal with ethical issues at the start of the research (Cohen et al., 2000). The researcher made sure that certain "ethical" boundaries were maintained and respected throughout the research process. In particular, several factors must be taken into account: informed consent, benefit of the research, consequences, confidentiality, and the role of the researcher (Kvale and Brinkmann, 2009, p. 68).

In my applications for ethics approval, the problems encountered when carrying out the research were outlined in detail. These included risk of personal harm, arrest and harassment of interviewees by the authorities in the Kurdistan region, and ethical issues that should be considered before, during and after the interviews. The risks to the researcher were also fully considered and addressed. Anticipating and managing these issues in advance was essential to the successful undertaking and completion of the research exercise.

However, due to the sensitivity of the research field and their strict criteria, the Research Ethics Committee only granted me permission to conduct interviews after three applications had been presented, consideration of each application taking nearly six weeks.

The nature and purpose of the interview were explained before the interviews began and all interviewees were asked for their agreement to participate and permission for the interviews to be recorded. As most of the interview questions dealt with sensitive issues (such as problems in the government, political parties' financial resources, and corruption related to the failings in the system of governance), apart from obtaining ethics approval, another challenge was how to approach the potential interviewees and obtain their consent to give an interview. Through initial contacts with my friends and colleagues in Kurdistan, I learned that they could help me in establishing contacts with the key interviewees that were willing to participate. In addition, I was required to seek signed consent from the interviewees before commencing interviews; as I conducted the interviews from the UK through video link and telephone, I normally obtained this consent by email. This formalised procedure deterred many politicians, MPs and officials from the ruling parties from participating in interviews. I was also made aware by my preliminary contacts that some of these people might be suspicious of my true identity as an academic researcher; it was possible that they might see me as either an undercover journalist or someone working for the opposition parties. This proved to be a valid concern because one of the politicians interviewed asked me before the interview whether I belonged to an opposition party and investigated corruption.

Another important aspect was confidentiality, as the researcher would obtain certain personal information. To minimise the "interviewer" effect, at the beginning of each

interview respondents were made aware of its anonymous nature and respect for confidentiality, that the interview data would be used for academic purposes only and that all possible measures were taken to ensure that the interviewees' information would be treated in confidence and with integrity (Kvale and Brinkmann, 2009). Furthermore, the interview questions were drafted so as not to influence participants to disclose personal or confidential data. Again due to the sensitivity of the subject matter, it would be very risky to disclose the names of the interviewees. The principle of anonymity was respected by not revealing interviewees' names, even though – perhaps surprisingly – many of them were happy for their names to be used. Nevertheless, interviewees were coded and referenced as outlined in Appendix I, so that nothing could be attributed to an identifiable individual participant.

Each interview was recorded with a digital recorder and immediately transferred to my personal computer using dedicated hard drives, which were both secured with a password known only by me and locked at all times in a safe box in my house during the fieldwork. After securely transferring the data to my personal computer, the interview records were erased from the recorder. I personally transcribed all interviews to protect anonymity and translated them from Kurdish to English myself. All the interview data was securely stored during the writing-up stage.

Furthermore, it was necessary to assess the risks of each interviewee's participation, to determine whether these outweighed the benefits (Kvale and Brinkmann, 2009). This study considered how much of a potential risk it posed for the interviewees and the researcher, and based on logical evaluation it was decided that there was no such risk, either for the researcher or for the interviewees.<sup>65</sup>

Kvale and Brinkmann (2009) argue that the interviewer's characteristics (e.g. sex, age, ethnicity, appearance, insider/outsider status etc.) are likely to affect the interviewees' responses, while a single interview provides partial information which is likely to be

---

65 As I conducted the interviews via voice and video calls from the UK, I did not see any risks to myself as a researcher. In relation to the interviewees, literature review shows that the topic under study is widely discussed in the media, and politicians, journalists and officials openly express their opinion about governance and corruption. Hence, this study found no risk to the interviewees in participating.

biased. During the entire period I remained professional and independent by acting as an outsider, as it was essential to avoid any bias throughout the research process.

However, even though a researcher may seem impartial and unprejudiced, interviewees might of course still be reluctant to speak openly or truthfully with an outsider, or may exaggerate their experiences in one way or another. In particular, some of the political members of the ruling party and the high-ranking officials may have altered their answers in such a way as to fit the formal position of their party or the government. To resolve this potential problem, this research followed the basic rule of thumb, as explained by Thurén (2005, p.67): if an interviewee is expected to be biased, his/her contribution must be cross-checked and balanced by a second source with a different bias.

### **Validity and Reliability of the Research**

When conducting qualitative interviews, the question of validity and reliability arises. Validity refers to whether one is actually measuring what one is intending to measure, while reliability implies the absence of unsystematic measuring faults (Teorell and Svensson, 2007, pp.6–33).

In relation to interviews and validity, Parahoo (2006, p.307) states that “a research interview ... is a verbal interaction between one or more researchers and one or more interviewees for the purpose of collecting valid and reliable data to answer particular research questions”. Applying this to qualitative research, validity can be interpreted as “the accuracy between the responses and the reality the responses were intended to provide”, while reliability can be interpreted as “a consistency of approach” when conducting the interviews (Gomm, 2004, pp.152–3). However, validity in a piece of research does not mean an absolute truth, but rather the knowledge that the researcher can obtain through the discussions and support by evidence and arguments. As mentioned above, this study used multiple methods and theoretical perspectives in order to make the findings valid. In sum, triangulation methods, transparency of discussion and theoretical grounding are the logical means used to secure the validity and reliability of the findings. Furthermore, the qualitative interview methods of data collection, plus the analysis of documentary data, add to the reliability of the outcomes and allows a

deeper understanding of the complex interrelationships between the concept and phenomena examined. In particular, the interviews conducted with MPs, senior judges, government policy-makers, academics and journalists explore many useful themes and explanations for the research and give the findings more reliability.

Moreover, in this thesis validity is achieved by linking the interview design to the theoretical framework of the thesis (Yin, 2009, p.42). The validity is built on a strong theoretical framework which explains the notions of QoG and democratic principles. It relies on the ability to understand obstacles to the process of implementation of the constitutions in Kurdistan and an explanation of whether and how the democratic principles mentioned in the constitutions might improve QoG.

With regard to reliability, every effort has been made to carry out the research in a transparent way and full details have been given on how the data was collected, how the analysis was conducted, and how conclusions were reached.

### **Research Problems and Limitations**

This section is about the limitations of this research and how the study has managed to minimise these.

Many crucial concepts are related to this study, such as details of constitutions, models of democracy, details of the relevant laws and regulations, accountability, devolution of power, public participation, civil society and human rights. All of these are crucial, but due to the scope of the study some have not been discussed in detail; rather, the study has concentrated on how each of these issues is associated with QoG and democratisation, and the obstacles to implementing these principles in the real world, as this study focuses solely on the delivery of the constitution and the reform process.

One of the limitations in relation to the data collection is that the sampling method used in this study was not based on “probability sampling”, where all relevant interviewees expect to be given the chance of being included; this technique was not possible in this research. For example, to be able to use this method a list of the names of all prospective interviewees must be available and a systematic selection



conducted, which was not possible. To remedy this, the study adopted “non-probability sampling”, which depends on the relevance to the research field and the availability of the interviewees and gives the researcher more flexibility to use available and accessible interviewees that fit the purpose of the research.

With regard to data collection, there are advantages and disadvantages to conducting research in my own country (it is implicit that I am embedded in the culture). The advantages are that I already have good links with many people in Kurdistan, which makes it easy to conduct interviews with them. In particular, I am known by many of the key interviewees. I speak the same language and I am trusted by them; I can also deal with any other challenges that might occur. The disadvantage is that I might take many things for granted, because assumptions may be difficult to avoid (for example an assumption that most politicians in Kurdistan are involved in corruption). To overcome this disadvantage, other researchers with knowledge of the study topic have been consulted, and I was cautious in dealing with the above weak points.

In the case of Kurdistan, as elsewhere in the Middle East, the political landscape is characterised by a large degree of discretionary authority on the part of political leaders. The authorities and the political parties have a policy of enforcing silence, and place unlawful sanctions on their people including dismissal and hostile reports, which create a culture of caution and limited transparency. These facts to some extent restrict politicians and officials from telling the truth about the situation; they may conceal significant information from the interviewer or give dishonest responses. However, this was resolved by assuring the interviewees about confidentiality issues from the start and giving them the option of refusing to answer any questions they were not happy with.

It could be argued that failure to check factual information (for example, accounting data) that might have confirmed or refuted responses to some questions was a limitation. Indeed, in some respects this may have been the case. The purpose of using interviews, however, was to spot patterns in the attitudes of key stakeholders within their field of activity. The absolute veracity of how they responded, from this viewpoint, was almost immaterial. It is the interaction of the groups within the operation of the field that determines the success or failure of the governance system and this was, hopefully, done to good effect.

## **Conceptual Framework of the Research**

In order to be able to provide an analytical framework for the implementation of constitutions in Kurdistan and improving QoG, this study discusses the essential concepts closely related to QoG, and explains the interrelationships between these concepts and how together they can improve QoG in a democratic society. Furthermore, it outlines whether, and if so to what extent, the principles of democracy can play a part in improving QoG in Kurdistan. In this regard, this study also investigates whether existing institutions, such as parliament, the judiciary, political parties, elections and civil society, are supportive in improving QoG in the region.

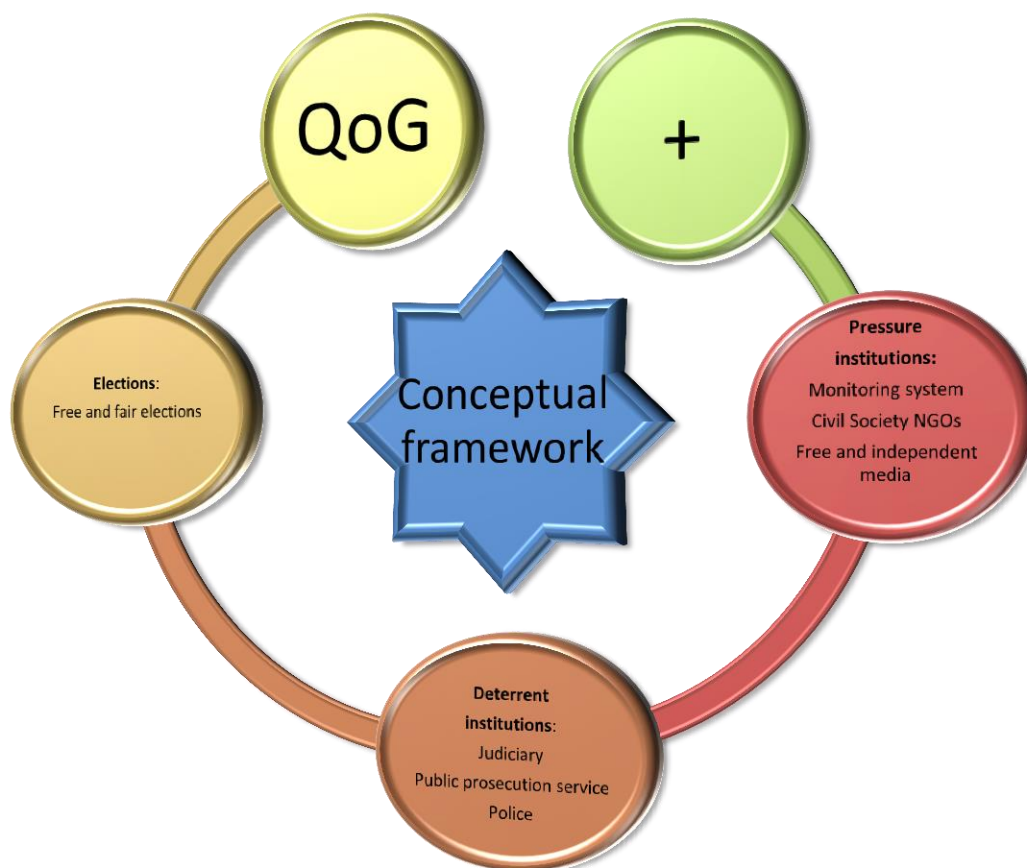
Bad governance has many causes, such as the absence of a proper democratic system and political domination of state institutions including the police and military, government offices, the judicial system, the media, civil society and NGOs. This creates an environment which lacks the rule of law, accountability and transparency, failings that paralyse the operation of the checks and balances that are essential for improving QoG and fighting corruption.

The majority of interviewees suggested various factors that support QoG, in particular free and fair elections, freedom of the press, the rule of law and an independent judiciary. In particular, three types of institution – “pressure institutions” (the media and NGOs), “deterrent institutions” (monitoring bodies, the public prosecution service, the police and the judiciary) and the electoral system – can improve QoG.

The research framework built on the theory that the effectiveness and independence of NGOs and the media determine the probability of corruption being investigated. The effectiveness of the deterrent institutions can guarantee that corrupt individuals will be punished. However, when the three institutions are weak and dependent and elections less competitive, corruption can flourish with ease (Waisman, 2008). The effectiveness of this mechanism depends on whether the media and NGOs are free and independent in detecting cases of corruption (this also depends on transparency from the government side), whether the deterrent institutions can trace dishonest individuals, and whether the courts punish them, as well as the fact that voters are unlikely to re-elect an incumbent if he is dishonest, and even less likely to do so when clearly informed by the media of the extent of his misconduct (Waisman, 2008). Thus, the process of improving QoG in a

democratic system has a direct relationship with the electoral process and its outcome. The elites obtain advantage from extracting rent while in power and future benefit through misusing their power to remain in office. They are only able to obtain rents today if not investigated and punished by the judiciary, and can only do so in future if the voters do not drop them in an election. Thus, when the three institutions (pressure, deterrent and elections) are not independent and effective, it is more likely that ruling politicians will be re-elected and remain in power despite being dishonest and would be able to remain in power notwithstanding how they behave.

This study therefore hypothesises that free and fair elections and independence of the judiciary, the media and NGOs are crucial prerequisites for creating a proper mechanism for public control over state institutions and improving QoG.



## **Chapter 3**

### **Summary of Emerging Themes**

#### **Elements That Support the Emerging Themes**

In this study my aim is to identify a number of themes and ideas which are raised the most often by the interviewees, in particular the themes that are most relevant to the study, such as those pertaining to democracy, QoG, and factors that affect QoG and the reform process. Themes and ideas initially gathered from early interviews were further discussed with subsequent interviewees. This cycle of thought continued throughout the duration of the study, which helped the researcher to identify a link between particular themes that emerged from the interviews as well as to cross-check these themes during analysis and discussion.

#### **Coding of Data**

Coding is a process that links the original data to the researcher's conceptual framework, adds meaning to the data and leads to more conceptual interpretations (Coffey and Atkinson, 1996).

From the start, data have been coded around four broad themes: concepts related to democracy and QoG; factors that affect democracy and QoG; corruption; and reform. This helped the researcher to organise the data so as to bring together fragments containing similar elements and to support the organisation of the different concepts. The coding then was systematically analysed and main themes were discussed in more detail.

The codes were then refined in order to highlight ideas and themes which related to and ran through each other. I then returned to the interview transcripts and noted whether, and if so how, each interviewee had spoken about each theme; this method provided a clear, systematic way of looking at the different views of the interviewees and

interactions between each theme. Furthermore, this allowed comparisons to be made across all interviewees and themes, and sense of the themes that emerged in the light of the research questions. Through this mechanism I was able to move back and forth between the literature, the research questions and the data (Mason, 2002). This method allowed me to develop interpretations that go beyond the data and how previous scholars looked at the subject, and to construct my own theoretical model about QoG, and factors that affect the implementation of the constitutions and the reform process in the Kurdistan region. However, I always ensured that the discussions centred on the original data through a systematic analysis of other data and triangulation analysis in order to enhance the reliability of the study.

The coding was undertaken at three levels:

1. The initial coding process started with grouping the texts from the interviews under the key questions. This was based on a pre-designed coding framework that reflected the themes of the interview schedule with a view to collating the responses and allowing broad comparisons between interviewees from the five different professions;
2. More in-depth coding of material was carried out to elicit specific codes from the interviews (e.g. the various factors that affect QoG and the suggestions for reform), and to identify any new themes that emerged from the interviews;
3. Higher-level coding of themes was carried out to outline the relationship between the data and the literature on democracy and QoG. The resulting themes have been used to structure the findings.

## Process of Coding and Themes

The researcher used data reduction to select, focus, simplify and transform the collected data. As this paper examines the interrelationships between democratic values (as they emerge in the constitutions) and QoG and how implementation of these values can improve QoG, the aim of the data collection is to cover the hypothetical model related to the subject field. This research determines the topics of the data collection through five main themes:

1. The democratic values that affect QoG: This theme was chosen because democratic values such as the rule of law, freedom of the press, political plurality and free and fair elections are all enshrined in the Iraqi/Kurdistan constitutions and are very important for a good governance system;
2. QoG: As this study focuses on the effect of the implementation of democratic constitutions on QoG, it is necessary to identify the concept of governance and determine the factors that make this process good or bad;
3. Factors that support or restrict the implementation of the constitutions: These factors are vital to this study because unless the failings in the current system are pointed out they cannot be addressed;
4. Corruption: The nature, forms and causes of corruption in Kurdistan should be given particular attention as this can help to answer the study's main questions, particularly since corruption has been referred to as a fuel that continuously feeds bad governance;
5. The reform process: This theme is very important because this study aims to outline the main reforms required in Kurdistan.

## Key Findings from the Interviews

This study focuses on the implementation of the constitutions, the main factors that affect this, and reform in the Kurdistan region. It is based on 41 in-depth interviews. Its key findings are outlined in the following table.

Table 1: Relevant themes that emerged in the qualitative interviews

Top level themes	Subsidiary themes

Democracy	<ul style="list-style-type: none"> <li>• Democracy in its broad sense can improve QoG</li> <li>• Democracy increases the level of public participation in the decision-making process</li> <li>• Democratic values that are fundamental for Kurdistan: free and fair elections, the rule of law, separation of powers, federalism, effect of opposition, freedom of expression, free and independent media, transparency, accountability, effective and independent judiciary, human rights</li> </ul>
QoG	<ul style="list-style-type: none"> <li>• Providing public services</li> <li>• Public security and protection of property</li> <li>• Accountability</li> <li>• Fighting corruption</li> <li>• Protecting human rights</li> </ul>
Factors affecting QoG and causes of corruption	<ul style="list-style-type: none"> <li>• Political influence on state institutions</li> <li>• Natural resources</li> <li>• Culture and social structure</li> <li>• National security problems, war and conflict with ISIS</li> <li>• Size of government and (effectively) two government administrations (one KDP and one PUK)</li> <li>• Legal system and the rule of law</li> <li>• Out-of-date administrative system</li> <li>• Kurdish disputes with Iraqi central government</li> <li>• Lack of a clear, enforceable regional constitution</li> <li>• Length of exposure to democracy, level of democracy and effect on QoG</li> <li>• Other factors: lack of political will for reform, education, lack of independent media, lack of active civil society, economic issues</li> <li>• Unresolved problems with central government: extraction and management of oil, disputed areas, power-sharing</li> </ul>
Types of corruption in Kurdistan	<ul style="list-style-type: none"> <li>• Corruption in the oil industry</li> <li>• Corruption in the recruitment and retirement system</li> <li>• Corruption in land distribution</li> <li>• Corruption in government contracts and tenders</li> <li>• Other forms of corruption, bribery and kickbacks, embezzlement, market and trade monopolies, revenue from tax, customs and bills</li> </ul>
Reform in Kurdistan	<ul style="list-style-type: none"> <li>• Effective and independent integrity system</li> <li>• Citizen awareness and educational system</li> <li>• Effective civil society</li> <li>• Training of public-sector staff</li> <li>• Trade openness</li> <li>• Regular contacts between citizens and the government</li> <li>• Clear, specific law to combat corruption</li> <li>• Lack of political will for reform</li> <li>• Effective parliament able to play two specific roles: monitoring the government and enacting legislation</li> <li>• Independent court to deal with corruption</li> </ul>

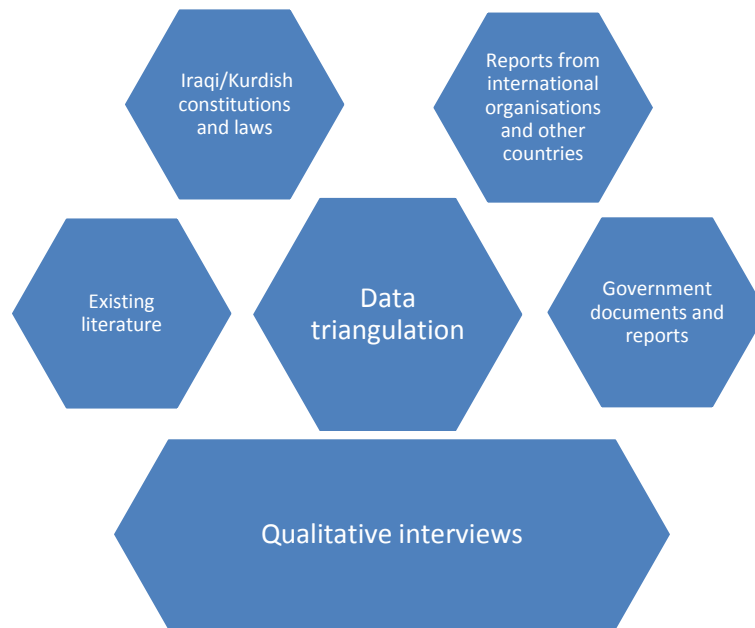
	<ul style="list-style-type: none"> <li>• Improving the recruitment system</li> <li>• Independent state cohesion forces: police, military and security forces</li> </ul>
Other themes	<ul style="list-style-type: none"> <li>• Kurdish national questions are the major issue for the Kurdistan region</li> <li>• Internal corruption is the biggest problem in the KRG, and the level of corruption in the Kurdistan region is very high</li> <li>• Corruption exists at every level of the state, but is high among senior officials and politicians, and is to some extent organised</li> <li>• The circle of corruption has allowed the ruling parties to remain in power for two decades</li> </ul>

### Triangulation

The main objectives of the semi-structured qualitative interviews were to examine the interrelationships between democratic values (as enshrined in the constitutions) and QoG, and explore the factors that affect the implementation of the constitutions, as well as to obtain in-depth information about how implementation of these values can improve QoG. The findings obtained from the interviews were compared and cross-checked with the literature review, government documents, national and international reports and other research documents. This process of analysis and comparing various sources is known as triangulation (Yin, 2009). This is the combination of two or more data sources, methodological approaches, theoretical views or methods of data analysis (Thurmond, 2001). The data triangulation increases reliability, as other data can be compared with the interviews. To further enhance reliability, critical documents from various sources have been consulted.

Figure 8: Triangulation of the research data

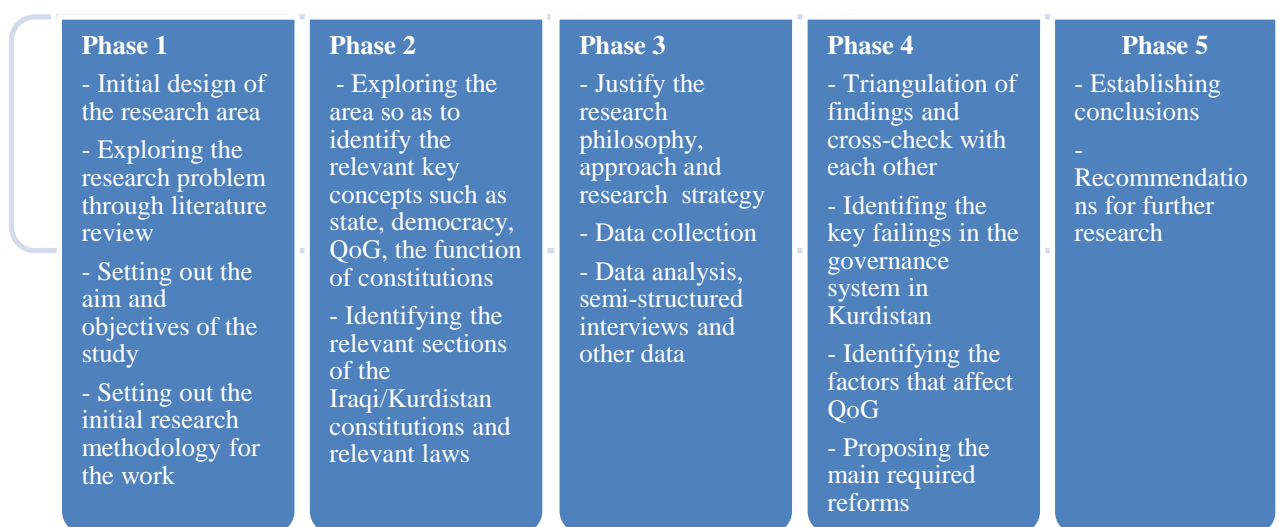




## Research Framework

The present research study has five implementation phases, as detailed in Figure 9. The five phases represent a chronologically simplified process for the completion of the research. Within and between phases there was a need to reiterate elements as the cogency and clarity of the research focus evolved.

Figure 9: Framework of the research process



## **Chapter 4**

### **Functions of the Constitution**

As this study is concerned with the implementation of constitutional law in Kurdistan, in order to understand the purpose that the constitution should fulfil and to determine whether the Iraqi and Kurdistan constitutions are capable of performing such functions, this chapter focuses on the fundamental role of constitutional law. Particular attention is given to the relevant constitutions in Kurdistan, namely the 2005 Constitution of Iraq and the 2009 Draft Constitution of Kurdistan.

One of the most precise statements about the philosophy of constitutionalism is that of James Madison, the most influential draftsman of the US Constitution, who stated:

But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed: and in the next place oblige it to control itself. (cited in Cooray, 1979, p.51)

However, almost all countries, regardless of different hierarchical structures of government and socio-economic considerations, have their own fundamental rules and principles for determining the rights of people, and regulating the functions of their institutions and the division of power among them. These fundamental rules are called “the Constitution”. Thus, the constitution plays a functional role mainly associated with the allocation of powers to the three branches of the state – the executive, the legislature and the judiciary – and it limits the powers of each of these institutions (Barnett, 2013). However, different states have different forms of constitution depending on their own history, culture, religion, and political and economic system. Nevertheless, they all serve the same aim, which is to outline the rights of individuals, establish government

institutions and divide power between them according to their various functions (Barnett, 2013).

This study agrees with Barnett (2013), who argues that the mere existence of a constitution in a state will not necessarily create a constitutional government; something more than the existence of a constitution is required for an effective system of constitutional government. Therefore, as suggested by Cooray (1971), a distinction must be made between constitutionalism where the constitution is practised as well as existing in theory, and sham constitutionalism, where the constitution provides for a great number of civil rights but is not implemented on the ground. A sham constitution only exists in order to mislead the population and the international community, and in reality the state tends to suffer from higher levels of human rights breaches and violence, because it deliberately does not comply with the constitutional guarantees. Examples include some African and Asian countries, where the constitution declares the upholding of civil and political rights but what happens in practice varies significantly<sup>66</sup> (Law and Versteeg, 2013). Law and Versteeg (2013) actually found a negative statistical relationship between the “comprehensiveness of rights guarantees by [the] constitution” and the state’s compliance with human rights, suggesting that countries whose constitutions include a greater number of freedoms and rights tend to experience greater levels of human rights abuse and violence against their own citizens.

This study argues that a constitutional system only exists where a constitution is the supreme law of the country and where in practice it regulates the exercise of power by the various institutions of government in order that all actions by public officials (from the top down) are authorised by law and are in accordance with laws and regulations.<sup>67</sup> Thus, the implementation of a constitution is more important than the constitution itself because, without adherence to the provisions of the constitution, politicians and government officials may operate for the benefit of those in power or those loyal to

---

66 For example, the 1999 Constitution of Eritrea clearly enshrines provisions that guarantee the “right to freedom of thought, conscience and belief” (Art. 19(1)), “the freedom of speech and expression” (Art. 19(2)) and the “freedom to practice any religion” (Art. 19(4)), but practice is completely contrary to this. The same is true for many other countries, such as Equatorial Guinea and North Korea.

67 However, according to the criteria introduced by Cooray, those countries whose constitutional law is part of their ordinary law, such as the UK, should be excluded.

them. Those who are neutral or oppose the leaders may be deprived of their rights. Hence, a constitution should be used as an instrument for protecting the interests of all the people, rather than just government supporters; this honourable aim can be achieved by limiting the scope of government power and specifying individual rights (Barnett, 2013).

For Montesquieu, whose views had a major influence on the US Constitution, the main purpose of a constitution is to protect the citizen from the excessive power of tyrants:

In order to have this liberty, it is requisite that the government be so constituted as one man need not be afraid of another. When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner. (Montesquieu, 1748, p.157)

He connected these concepts to the principle of separation of powers, which this study considers an important provision for securing the implementation of the constitution, improving the system of governance and controlling abuse of power in Kurdistan.

This paper agrees that the fundamental purpose of a constitution is to confer and restrict powers of the government. This may be achieved by three methods: the rule of law; the separation of powers and a system of checks and balances; and the federalism system (Cooray, 1988; Bradley and Ewing, 2011).

## **The Rule of Law**

### ***What is the rule of law?***

Aristotle accepted the supremacy of law as the indicator of good governance; more than 2,000 years ago, he stated that “man, when perfected, is the best of animals, but, when separated from law and justice, he is the worst of all”. Henry de Bracton said “The King himself ought not to be subject to man, but subject to God and the law, because the law makes him King” (Chaurasia, 2001). The connection of the rule of law to democracy can traditionally be found in Locke’s (1690) argument that the power of the ruler is not absolute, supreme power, but merely “fiduciary” power to rule the state as long as the

people consented. This illustrates that the rule of law is a core principle of democracy that embodies ideas such as constitutionalism, which guarantees the fundamental political, social and economic rights of citizens against arbitrary rulers and lawlessness.

Although the rule of law is considered a virtue of any political system, because of its ambiguity the concept is rarely defined. In its simplest interpretation, the rule of law means that everything must be done in accordance with the law, and no one is above it. In other words, the absolute supremacy of law rather than the influence of arbitrariness power and tyranny (Ryan, 2012). Dicey (1885) argued that the rule of law targets the reduction of broad discretionary power in government, preventing government from creating the law it needs to execute; rather, the government itself must be subject to the established laws. Furthermore, he suggested that the rule of law requires all persons to be subject to the ordinary law equally, with no privileges for anyone. Any discretionary power must be exercised according to law, and great control must be exercised to prevent misuse of power.

However, O'Donnell (2004, p.33) in his definition for the rule of law concentrates more on the principle of impartiality. He argues that “whatever law exists is written down and publicly promulgated by an appropriate authority before the events meant to be regulated by it, and is fairly applied by relevant state institutions including the judiciary”. He then states:

By “fairly applied” I mean that the administrative application or judicial adjudication of legal rules is consistent across equivalent cases; is made without taking into consideration the class, status, or relative amounts of power held by the parties in such cases; and applies procedures that are pre-established, knowable, and allow a fair chance for the views and interests at stake in each case to be properly voiced. (ibid., p.4)

The above definitions illustrate that the rule of law is highly compatible with the concept of good governance and the impartial governance system.

However, the meaning is not complete unless the law determines and limits the discretionary power of the ruler. The rule of law limits the government's actions within a

framework of law; to be considered legitimate, authority must first be established in accordance with the constitution. Hence, from this point of view, the constitution becomes the fundamental law of the state for the protection of citizens against the arbitrary actions of the rulers. The constitution and the rule of law are therefore fundamental to QoG and considered key to any discussion of it, and should therefore be given priority on the agenda for improving governance in transitional countries (Carothers, 1998). However, Fuller (1964) argues that adherence to the rule of law is substantial, but it is not enough; rather the law must provide an environment in which government and the legal system can serve the interests and needs of the people. Hence, Fuller concentrates on the “inner morality of law” and focuses on building a secure foundation for a legal system that is able to achieve beneficial outcomes. The significant point in Fuller’s argument is that a government that lacks the basic requirements of a “good” legal system should not be recognised as a government according to law, and hence it could, rather, be considered as some form of regime without a legal system. For example, a morally detestable regime, such as Nazi Germany, does not meet Fuller’s requirement and should not be considered as adhering to the rule of law because it lacked the moral values of a democracy (Bratton and Chang, 2006, pp.1077–8).

Lord Bingham (2010) favours the principle provided by John Locke: “Wherever law ends, tyranny begins” (p.2). In his book, Lord Bingham identified the core formulation of the rule of law as being “All persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly made, taking effect (generally) in the future and publicly administered in the courts” (p.8). He constructs a robust framework, outlining eight principles which he considered key ingredients to achieving the rule of law:

1. The law must be accessible and, so far as possible, intelligible, clear and predictable. The people must have access to courts empowered to resolve civil disputes, and courts must enforce rights and claims efficiently and affordably;
2. Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion. In this regard, he suggests that a state requires some rules that “no government should be free to violate without legal restraint” (p. 170). He argues that the rule of law underlies the separation of powers: the legislature

passes laws, the executive enforces them, and the judiciary decides individual cases arising from those laws;

3. The law should apply equally to all, save to the extent that objective differences justify differentiation;
4. The government, including public employees at all levels, must exercise their powers in good faith, reasonably, fairly and for the purpose for which the powers were conferred, and they should not exceed the power provided by law;
5. The law must afford adequate protection of fundamental human rights, in particular those rights that are considered to be essential for individuals living in a democratic society;
6. The state must provide citizens a way of resolving disputes which the parties cannot themselves resolve without prohibitive cost or inordinate delay;
7. The state should allow avenues for legal challenge and provide fair adjudicative procedures for criminal, civil and administrative cases;
8. The rule of law requires the state to comply with its obligations in international law as in national law.

In a democratic constitution, the rule of law has become a fundamental concept. Hence, focusing on the doctrine of the rule of law is necessary for constitutional democracy, where human rights and the will of the majority might be implemented by adherence to the rule of law (Ryan, 2012). The constitutional democracy that imposes on the state the duty to adhere to the provisions of the law is desirable; however, in the modern state the principle should include fundamental human rights and liberties, particularly in a modern liberal democracy where the state is based on the true preservation of civil rights and liberties (Bratton and Chang, 2006, pp.1078–9).<sup>68</sup> A liberal democracy requires the protection of individual freedoms and autonomy so that the individual is free from illegal interference by the state on the one hand and is given rights to participate in the decision-making process through the democratic procedures on the other (Pillay, 2014).

---

68 During the third wave of democracy, illiberal democracy has broadly increased. In 1974, over 80% of democratic states were “liberal” and all were rated “free” by Freedom House. However, as a result of the rule of communism in many Eastern European countries, the number of liberal democracies declined and, by 1991, less than 60% of the democracies in the world were considered to be “liberal”; however, since the collapse of the communist bloc in 1991, the proportion has increased again (Diamond, 2002).

Hayek (1960) goes even further, suggesting that in a liberal democratic country, the rule of law must include provision for preventing the state from engaging in unnecessary interference in the private lives of individuals, the separation of powers between the three government branches (such as allowing a proper process of checks and balances to prevent the misuse of power by rulers), giving legitimacy to the ruler through frequent free and fair public elections, and finally, restricting wide discretion by government officials. Hayek (1960) further argued that the law should be in a clear written form, in terms easily understood by the people to enable them to plan their lives accordingly in a free society. He argues that implementation of the rule of law in such a way can improve and develop the economy. When the law is enforceable through an independent judiciary, when property rights are protected, and when contracts are fairly enforced, greater confidence is generated in business and foreign investment in the region.

However, good governance is not just about the rule of law, as it covers other actions of the state not directly related to the law. For example, when the government enacts regulations and policies of a “human processing” nature, such as healthcare, welfare, education, agriculture, trade, business and industries, it should grant wide discretionary powers to local authorities and the professional bodies responsible for implementing such regulations and policies (Rothstein and Teorell, 2008). In such areas of work, officials have to establish actions according to the requirements of each case, and enacting precise “rule-of-law”-based regulations to deal with such cases therefore becomes impossible in administrative terms. Rather, governance should be carried out by professional bodies that give greater consideration to scientific and professional standards, which are not directly relevant to the principles of the rule of law. The conclusion is that while the “rule of law” principle is a central ingredient in QoG, it does not cover the full boundary of the concept, but QoG is a much broader term (Rothstein, 1998).

In relation to the practical aspects of adherence to the rule of law, one should not forget the significant role of culture. The rule of law cannot be achieved in society unless social and political cultures adopt the principle, have faith in its value, are prepared to accept it, and are committed to it. Some Western scholars argue that the principles of the rule of law are achievements of Western societies and that the principle cannot therefore easily be implemented in other places where this value is not rooted in society (Maravall and



Przeworski, 2003). This idea was explored by Samuel Huntington in *The Clash of Civilizations*, where he argued that certain principles such as human rights, individualism, freedom and equality are not compatible with the culture of Islam, Hinduism, Buddhism, Confucianism and Orthodoxy. However, this view has been challenged in practice, and the examples of liberal democratic states such as Turkey and Indonesia clearly demonstrate that Islam is not incompatible with democracy (Pillay, 2014). The recent demonstrations demanding freedom and democracy in Tunisia, Egypt, Libya and Yemen known as the “Arab Spring” confirm the view that the culture of the Muslim world is not a barrier to the process of democratisation and greater freedom. Hence, the argument that culture is a major reason some societies observe the principle of the rule of law, and others do not, remains a weak one. Rather, culture is a dynamic concept and is subject to political, economic and social changes (Pillay, 2014).

### **Rule of Law in Iraqi Kurdistan**

The Iraqi constitution provides for the principle of the rule of law. The Preamble embodies the rule of law as a basic feature. The constitution designs the structure of government and how it derives and exercises authority in a way that fulfils the government’s wish to respect the rule of law (Articles 14, 15 and 17). Reading the constitution gives the impression that most of its provisions are aimed at maintaining the rule of law. In particular, the constitution confirms the following:

1. Equality before the law (Article 14);
2. No one is above the law (“sovereignty of law”, Article 5). In this regard the constitution contains various provisions requiring the government and its officials to be subject to the law and to abide by decisions of the courts (Article 19);
3. Prohibition of discrimination on the grounds of gender, race, ethnicity, nationality, origin, colour, religion, belief or opinion, or economic or social status (Articles 14 and 20);
4. Protection against unlawful arrest or detention (Article 19 (12 and 13));
5. The three branches of government should adhere to the law (Preamble, Articles 19 and 37);
6. Citizens are protected against abuse of discretionary powers (Articles 15, 17 and 37);

7. The right to a fair trial, independence of the judiciary, sovereign power of the courts, right to a defence and the principle of innocence until proven guilty in a fair trial (Article 19 (1 to 7));
8. Protection of basic human rights (Articles 14 to 20).

The foregoing demonstrates that the Iraqi constitution embodies the rule of law.

However, the real questions for consideration are: Despite the clear affirmation of the rule of law in the constitution, why does Kurdistan not adhere to the principle?<sup>69</sup> What are the guiding principles that should influence a government committed to the rule of law?

The recognition of the principle of the rule of law in the Iraqi constitution was one of the most significant factors in the new democratic regime in Iraq. The rule of law is developing and becoming an important doctrine of democratic governance in Kurdistan. However, understanding the principle in the political arena and implementing it in practice are being hampered by the troublesome heritage of the former Iraqi regime, which was based on the rule of a single party that abused its power and ignored citizens' rights (Qadr, 2007).

The Iraqi Interim Constitution of 1970, which consisted of 67 articles and was in force until the invasion in 2003, described Iraq as a Sovereign People's Democratic Republic (Article 1). It provided for fundamental rights such as freedom of expression, freedom of association, freedom to form political parties and freedom of religion, and confirmed

---

69 The majority of my interviewees, in particular those from the opposition, were not satisfied about the condition of human rights in the Kurdistan Region. In addition, as will be explained in more detail in following chapters, many national and international human rights organisations confirm the violation of human rights by the KRG. For example, the US Department of State's (2013) "Country Reports on Human Rights Practices: Iraq" reveals many cases of violation of the rule of law by the KRG, in particular: violations by the security forces and the police in relation to altering or concealing information in documents and files which led to the release of criminals and politicians without charge; inhumane torture of suspects; influencing judges by using various types of pressure and threats; and the failure to enforce the orders and decisions taken by judges or public prosecutors and creating restrictions on them in legal proceedings. Moreover, many judges in Kurdistan are loyal to the ruling parties and in certain cases deliver verdicts in favour of politicians or the ruling parties.

that all citizens are equal before the law, without discrimination. It also guaranteed equal opportunities for all citizens, according to the law.

In practice, however, the provisions of the rule of law and protection of human rights had very limited application since the 1970 Interim Constitution granted wide powers and discretion to the President of Iraq.<sup>70</sup> The president became Head of State and Commander in Chief of the Armed Forces, and also exercised executive authority. Thus, the constitution granted the president broad powers and gave full constitutional amenity in ways that enabled the president to misuse his power for his own interests and the

---

70 See Interim Constitution of Iraq 1970, Articles 4 to 47 and 51 to 57. For example, Article 56 states:

(a) The President of the Republic is the Head of the State and the Commander in Chief of the Armed Forces and shall exercise the executive power directly or with the assistance of his deputies and Ministers in accordance with the provisions of this Constitution.

Under Article 57 the president had the following rights (paraphrased for ease of reference):

The President of the Republic shall exercise the following powers:

- (a) Preserving the independence of the country ...
- (b) Declaring the total or partial state of emergency and [the termination] thereof in accordance with the law;
- (c) Appointing the Vice-Presidents of the Republic and Ministers and relieving them of their posts.
- (d) Appointing the judges, governors, and all civil and military state employees, promoting them, terminating their services, placing them on responsibility, and granting badges of honour and military grades, according to the law.
- (e) Preparing the draft general State budget, the independent and investment budgets annexed to it, and ratifying the final accounts of these budgets and referring them to the National Council for discussion.
- (f) Preparing the general plan of the State in all economic and social affairs.
- (g) Concluding and granting loans, supervising the organisation and administration of the currency and insurance.
- (h) Supervising all the public services, official and quasi-official organizations and public sector organizations.
- (i) Directing and supervise the work of Ministries and public organizations and coordinating among them.
- (j) Conducting negotiations and concluding agreements and international treaties.
- (k) Accepting the diplomatic and international representatives in Iraq and demanding their withdrawal.
- (l) Appointing and accrediting Iraqi diplomatic representatives in Arab and foreign capitals and to international conferences and organisations.
- (m) Issuing special pardons and ratifying judgements of capital punishment.
- (n) Supervising the good application of the constitution, decisions, judicial judgments, and developmental projects in all parts of the country.
- (o) Conferring some of his constitutional powers on one or more of his deputies.

oppression of his opponents; this led to the creation of a dictatorship. The Interim Constitution gave the president the capacity to place himself above the law, so that the principle of the rule of law as provided for by the constitution was not applied on the ground.

Following the invasion of Iraq, the drafters of the new Iraqi constitution attempted to draft a constitution that supported the creation of a democratic society, guaranteed the fundamental rights of citizens and upheld the rule of law (Katzman, 2005).

As mentioned above, the 2005 Iraqi constitution pays particular attention to the rule of law. However, as reported by the interviewees, there are problems when it comes to putting this into practice, in particular the culture of dictatorship, the problem over separation of powers between the three government branches, and the political domination of the state institutions. Due to the interference of politicians in public institutions and services, this has seriously undermined the rule of law. In addition, if the rule of law continues to be weakened, the maintenance of peace and order in the region, which is the aim of good governance, may be ruined and instability and disorder will replace it.

Since the 1991 uprising, the structure of government and the institutions of governance have remained the same despite the election process giving people opportunities to choose their representatives (Qadr, 2007). Following the collapse of the former Iraqi regime, the new Iraqi constitution was approved. This was an improvement on the Interim Constitution of 1970 and provided guarantees for most fundamental human rights and liberties. However, the political and legal systems of the KRG have not seen much change in terms of a move towards the rule of law and democracy. The president of the KRG is democratically elected, but the people have not been given a genuine opportunity to participate in the decision-making process on matters of relevance to them. The ruling parties fail to pursue their interest through the law and the democratically elected government. Rather, the main political parties have misused government offices for their own political and personal interests (Karim, 2010a). Hence, despite major improvements in the constitution, in practice it fails to secure the application of the rule of law and equality before the law.

### **The Division of Power as the Most Significant Role of a Constitution**

From a legal point of view, the functions of the state have traditionally been divided into three categories: legislative, executive and judicial. The essential function of a constitution is to determine the distribution of power among these authorities to ensure that the power of each branch remains within the legal limits (Carroll, 2011). The powers of these institutions must be balanced in order to prevent any of them abusing these authorities. Some constitutions concentrate power in an individual or a particular institution; this is known as a “power concentration”. Other constitutions aim to distribute power among the different branches of the state; this is called a “separation of powers” (Barnett, 2013). The Iraqi constitution pays particular attention to the principle of separation of powers, as enshrined in Article 47: “The federal powers shall consist of the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers”.

Historically, the idea that the state has distinct functions was originally observed by Aristotle. However, “the doctrine of a separation of power” was first suggested by Montesquieu as the criteria of a free constitution developed.<sup>71</sup> In his *Second Treatise on Civil Government*, Locke (1690) explained the rationale behind the doctrine, arguing that once the legislators become separated from the other two authorities, they must themselves become subject to the law that they have enacted as it is not in the interests of justice that those who create the law also be given the power to implement it. However, Locke’s approach to the principle of separation of powers was restricted to the physical separation of the legislators, without considering how to maintain a balance between the three authorities. He considered the legislature to be the supreme power in the state and that the other two authorities subordinate to it (Ryan, 2012). Contrary to Locke, this study argues that QoG is not affected by the separation of powers itself but, rather, by the balance between the three powers, where each branch of government is

---

71 The doctrine of separation of powers was reflected in the British constitution (the sum of laws and principles that make up the body politic of the United Kingdom) and then applied to the US Constitution in 1787. Soon afterwards, the doctrine was strictly adopted in France, when the declaration of 1789 stated that “a society which lacked the separation of power has no constitution at all”. Since then, the doctrine has become a common theme and has been integrated in many other constitutions such as those of Germany, Australia and India (Finer, 1995).

obliged to be accountable to the others. This theory has been known as a “mixed government” in which the various branches of government can participate in the process of checks and balances in managing the state.

This study agrees with Huntington (1969), who explained that the aim of the principle of the separation of powers in democratic societies is to limit the power of the elected decision-makers, otherwise sharing their power with citizens. For a democratic constitution to have a positive effect on QoG, elected individuals should not be given absolute power (Adserà, Boix and Payne, 2003).

Qadr (2007) and most of the interviewees agree that the biggest challenge in Kurdistan’s reform process is not so much the separation of powers between the three branches of government, but rather the separation of the political parties’ power from the government branches and the formation of independent and effective democratic institutions. However, in Kurdistan, the separation of powers by this means is not easy. Although, in theory, both constitutions clearly emphasise this provision,<sup>72</sup> and claims confirming the separation of powers are regularly made by politicians and the government, this cannot be achieved in the region unless society in general is ready to respect the other principles of democracy, and – more importantly – the political parties allow the state institutions to perform their functions impartially and show commitment to the rule of law. In Kurdistan, there is a bigger challenge as, according to most of the interviewees, the problem is not only the domination of power by the executive authority but also the domination of the three branches of government by politicians. In the opinion of many interviewees, the political parties still have greater power than the government institutions, and have influence over the entire decision-making process in Kurdistan (for example, interviewees 2, 4, 5, 8, 9, 10, 14, 16, 20 and 22). As a result,

---

72 As already mentioned, Article 47 of the Iraqi Constitution 2005 states: “The federal powers shall consist of the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers”. Article 1 of the Draft Constitution of Kurdistan 2009 states: “The Iraqi Kurdistan Region is a region within the Federal State of Iraq. It is a democratic republic with a parliamentary political system that is based on political pluralism, the principle of separation of powers, and the peaceful transfer of power through direct, general, and periodic elections that use a secret ballot”.

democratisation cannot achieve its aim as stated by Huntington, because votes are yet to be translated into a properly elected government where people have a voice.

In relation to this argument, a politician from the Movement for Change (GM) (interviewee 15) argued that, despite a declaration of the concept of the separation of powers in the constitutions, in practice the government is an authoritarian model and similar to that of Saddam Hussain's regime, in which the ruling party exercised its control over all state government institutions such as the police, security forces, the military, the courts and all other public institutions. Decisions are mostly taken by the ruling political party rather than by the representatives of the people. He also argued that, although the leaders in Kurdistan are elected to represent the people, decisions are made on a "top-down" basis by the ruling political parties according to their own interests, rather than in the interests of the public or the needs of society. According to an MP from the PUK (interviewee 5), among the elements that influence the ruling parties are the revolutionary-based power they have obtained, the political culture of dictatorship in the region, and external pressures exerted by the central Iraqi government.

Nevertheless, this paper does not argue that the decisions made under political influence were always wrong. The issue is, rather, that the constitutional principle of the separation of powers does not exist in practice; the people are not the source of these decisions, which are sometimes not beneficial to them as they are supposed to be in a democratic society.

### *Separation of Powers and a System of Checks and Balances*<sup>73</sup>

Montesquieu (1748, pp.158–60) explained that the rationale behind the principle of separation is that the concentration of all the state's powers in the hands of a single branch of government may lead to it abusing those powers. Montesquieu further invented a fundamental principle, stating that power, by its nature, can only be regulated, checked and balanced by power. Drawing on this theory, this study describes how the provisions in the constitutions on the separation of powers provide checks and balances that prevent abuses of power, protect individuals, and consequently improves QoG.

---

73 This study defines “checks and balances” as a system in which the different parts of state or other societal institutions have powers that affect and control the governance branch, limiting its abuse of power and preventing corruption. This definition takes into consideration many others, of which the following are some examples.

The Merriam-Webster dictionary defines checks and balances as “a system in which the different parts of an organization (such as a government) have powers that affect and control the other parts so that no part can become too powerful” or “a system that allows each branch of a government to amend or veto acts of another branch so as to prevent any one branch from exerting too much power”. Available at:

[www.merriam-webster.com/dictionary/checks%20and%20balances](http://www.merriam-webster.com/dictionary/checks%20and%20balances) [Accessed on 23rd October, 2015]

The Free Dictionary defines the concept as a “System whereby each branch of an organization can limit the powers of the other branches, as in ‘The union has used a system of checks and balances to prevent any large local from dominating its policies’. This system was enacted through the Constitution of the United States in order to prevent any of its three branches from dominating the Federal government. The term is occasionally transferred to other mechanisms for balancing power.” Available at:

<http://idioms.thefreedictionary.com/checks+and+balances> [Accessed on 23rd October, 2015]

Study.com offers: “... checks and balances carried out by each of the three branches of the government on the other two branches to limit or prevent other branches from becoming too influential.” Available at:

<http://study.com/academy/lesson/constitutional-checks-balances-on-the-power-of-the-supreme-court-definition-examples.html> [Accessed on 23rd October, 2015]

Waisman (2008) introduced a different model of checks and balances in democratic states. In her theory, the media can play a complementary role in the control of corruption along with the three branches of government. She argued that the degree of judicial and media dependence determines the probability of corruption being investigated. In a democratic system, the voters need to estimate the level of corruption based on the media's reports. The judiciary can remove from office an incumbent proved to be corrupt. Voters are unlikely to re-elect the incumbent if he is corrupt and even less likely to do so when informed by the media of the extent of the problem.



The relationship between the principle of separation of powers and a system of checks and balances is closely related to good governance (Bradley and Ewing, 2011). A modern liberal democratic constitution includes provisions for the distribution of powers among the different branches of government on the one hand, and enables these branches to monitor one another through a process of checks and balances on the other. Essentially, the system of checks and balances operates firstly through the constitution, the law and regulations, and secondly through the interactions between citizens, the media and the state institutions (Barnett, 2013).

Rose-Ackerman (1999) notes how this principle can improve QoG, arguing that the separation of the three authorities allows the state institutions responsible for each power to be established in a form that complies with the specific nature and demands of each organisation, and may lead to greater professionalism among officials. For example, the judiciary may require an understanding of the legal concepts and training in areas of adjudication and legal rationalities, a level of legal professionalism that may not necessarily be required by the executive or legislative authorities. However, the executive authority needs to understand management, leadership, problem-solving techniques and IT skills. Hence, the combination of the three authorities together in a single body may create unprofessional and weak governance institutions. The principle of separation and the process of checks and balances may, therefore, limit corruption and improve QoG.

In relation to the principle of separation in a federal state and its effect on QoG, this study agrees with Ryan (2012), who argues that the system of checks and balances might create an active oversight body through two different dimensions: first, by each branch of government monitoring the others, and second, through the distribution of authority between state and federal governments, and giving the central government the role of watchdog over regional governments. Hence, the aim of the principle of the separation of powers is to balance power between the three branches of government, enabling each to check the others; for instance, the executive's actions are subject to judicial review by an independent judge in the interests of improved transparency and accountability and the recognition of citizens' rights, as the constitutions require (Ryan, 2012).

Interviewees 7, 10, 14 and 16 explained with confidence that, when power is allocated to different institutions that are independent of one another and each checks the functions of another, this can create a process of checks and balances, but only if the political parties stop their (illegal) interference in the government's work. However, a KIG politician (interviewee 41) argued that, in Kurdistan, the principle of the separation of powers could not play an effective role in improving QoG because all the government institutions are under the influence of the political elites. So it would appear that, as a first step, the KRG must work towards reducing the political domination of the institutions of governance and then establishing a proper mechanism of checks and balances between the three branches.

The explanation for the link between the principle of the separation of powers and QoG is that the person who possesses power will be in fear of the reaction of other state institutions with powers to report any abuse of power, especially when individuals have been given the opportunity to challenge abuse by the state, by seeking help from other institutions (for example, through the courts and Ombudsman). In particular, a KDP MP (interviewee 39) explained that a state official should fear the reaction of his rivals to any attempt by him to expand his powers at their expense. As a result, his capacity to hide his own violations or intimidate his opponents will diminish and he will become more cautious. Consequently, a state institution under pressure from other institutions has no option but to design its policies in a way that serves the public interest and operates well in order to fulfil its duties in the most appropriate way.

From the foregoing discussions, one can conclude that the doctrine of separation of powers and a system of checks and balances are necessary to the Kurdistan region, as the aim of democracy is to provide effective state institutions that enable the state to protect the individual liberties of citizens. Practising the principle affects not only the legal system but also the political system, the implementation of democratic principles, the electoral system and the independent judiciary (considered in more detail in the following chapters).

### **Federal System**

Since World War II, a federal system has been used by many countries as a way of establishing peace between different nations and ethnic groups and protecting the

country's unity and territorial integrity.<sup>74</sup> Federalism has been considered a logical solution to cases of minority conflicts – with some success – and also as a decentralised system where the administration of power would be shared with the regions in the country in order to maintain the diversity of political entities, especially ethnic minorities. Hence, federalism should be regarded as the “toleration of difference rather than the overcoming of difference in a wider unity” (Ward and MacDonald, 2009, p.137).

During the past couple of decades, there have been a number of settlements in multi-ethnic countries, such as Bosnia-Herzegovina, the Philippines, Cyprus, Former Yugoslav Republic of Macedonia, Moldova and the UK (Northern Ireland), as well as Iraq (Kurdistan Region). However, settlements in many of these cases were not about power-sharing, but rather about the achievement of regional autonomy (O’Leary, McGarry and Salih, 2005). Autonomy has been also considered an appropriate method of satisfying the demands of minorities, but it has not always been successful. For example, autonomy failed in the case of Yugoslavia, the Soviet Union, Czechoslovakia and Corsica, but it has been very successful in the case of the Åland Islands (Finland), Canada and Belgium, and this model has attracted growing international attention in the last few years (Eriksson, 2007). Furthermore, many countries gained advantage from the federal system, such as India, Mexico and Nigeria. In this regard, Bermeo (1999, pp.98–9) studies 112 territories made up of 46 federal states and 66 unitary states. She concludes that minorities in federal states are involved in less violence, experience less discrimination, and face lower levels of grievance in relation to political and economic policies. Furthermore, her findings hold regardless of the level of wealth, stability and form of the regime of a country (Bermeo, 1999, pp.98–9; Stepan, 1999). Hence, federalism is considered as one of the necessities that help multi-ethnic societies to

---

74 For example, federalism received particular attention in Latin America, Asia and Africa, and even in Western Europe. The classical federations are those of the USA, Canada, Australia and Switzerland. Federalism was proposed in many colonies after 1945, such as the British possessions of Malaya (1948), Nyasaland (1953), Nigeria (1954), the West Indies (1958) and South Africa (1959). The French also attempted to set up colonial federations during this period in Indo-China, French West Africa and French Equatorial Africa, while the Dutch imposed a federal constitution on Indonesia in 1949 (Rath, 1984, pp.182–3).

consolidate democracy in the long term; for example, in Switzerland, Canada, Belgium and Spain, federal systems have supported democracy (Stepan, 1999, p.19).

After the invasions and political changes in 2003, because of the complex ethnic and religious composition of the country,<sup>75</sup> the Iraqi political forces accepted federalism as an alternative to secession and partition, and as the only way of maintaining the integrity of Iraq. Article 109 of the 2005 constitution states that “The federal authorities shall preserve the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system”. For the same reason, the US and the UK supported the idea of federalism as the only compromise that could secure the rights of Kurds and protect the unity of Iraq to satisfy Arabs, and also as a tool to develop democracy in the region (Babakhan, 2007, pp.165–7).

Hence, by its commitment to a federal status within Iraq, the KRG challenged centralism, which was opposed by all Kurdish political parties. As a *de facto* state, Kurdistan has already built its own regional government and between 1991 and 2003 Kurds had enjoyed stability, freedom and autonomy. Undoubtedly, for Kurds, any return to centralised Iraqi authority would bring ruin to all those national achievements, and increase the chance of internal tensions between Kurds and Arabs. For this reason, the Kurds sought a realistic and logical solution, which they found in a genuine partnership with Arabs on the basis of a federal democracy where they can enjoy the same competencies and rights. Stepan (1999) refers to this as a “symmetric system”, such as the federal system practised by the US, where each state enjoys the same level of constitutional power (Ghai, 2003). In order to achieve equality in power-sharing, the Iraqi constitution gave details of how power is distributed between the federal and

---

<sup>75</sup> Iraq is a multicultural, multi-faith and multi-ethnic country. 97% of the Iraqi population is Muslim (Sunni and Shiite), and the remaining 3% is composed of Christians and other religions (DLIFLC, 2011). 60–65% of the population are Shiite, 32–37% are Sunnis, and the Kurds – estimated to constitute 15–20% – are also Sunni Muslims (Nations Encyclopedia). Ethnically, Arabs constitute 75–80% of Iraq’s total population (Minority Rights Group International). The remaining 5% are composed of Assyrians, Mandaean, Shabaks, Yazidi, Armenians and Turkmen. Geographically, Kurds are located in northern Iraq, while the Shiite Arabs are mostly in the south. In the centre, Sunni Arabs are in the majority but in some cities, such as Baghdad, there are also a large number of Shiite Arabs (Nations Encyclopedia)..

regional states, and included mechanisms to regulate affairs between the centre and the regions and to resolve any potential violations between them (such as the Federal Supreme Court and the Federal Public Service Council).

However, the Kurds dream of an independent state, and they accepted federalism only reluctantly because they well understood that there was no political space for independence. The Arab factions (including Shia and Sunni) denied an independent state for Kurds, and Kurdistan's neighbours – Iran and Syria – also clearly rejected independence for the Kurds. More importantly, the US and the UK preferred Iraq to remain unified. As an alternative, the Kurdish political parties declared that they accepted reintegration to Iraq post-2003 on condition that 1) they would be able to share power with the Arabs, and only if the Iraqi government admitted the Kurdish national right of autonomy as a single geographic entity in the proposed federalism; and 2) they would remain part of this federal system as long as the central government adhered to the principles of human rights and democracy as provided by the constitution, in the absence of which they should have the right of self-determination and to separate from Iraq (O'Leary, McGarry and Salih, 2005, pp.24–7).

However, the principle of power-sharing with the central government is relatively weak and informal within Iraq, and the central Iraqi government has recently been dominated by an alliance between Shiite Arabs and Kurds. While the government is led by a Shiite prime minister, the president of the Republic is a Kurd, and Sunni Arabs have been given the post of head of parliament (BBC News, 2008).

Furthermore, federalism is important for Kurdistan because it is considered an effective device for controlling the government's power (Cooray, 1988) and can act as an appropriate arrangement for the peaceful coexistence of different ethnic groups in democratic countries and prevent the domination of power by the central government. Consequently, a federal system can best achieve stability, security and economic growth and even reduce the level of corruption (Gurr, 1994; Hartzell, Hoddie and Rothchild, 2001; Bermeo, 1999; Rose-Ackerman, 1999).

According to Lijphart (2002), federalism can be a solution to divided societies and assists the process of democratisation. People are given the chance to govern their own affairs and

participate in the decision-making process, especially in relation to education and culture. Taking into account the continuous violence and war among Shiite militias and Sunni extremists since 2003, it is suggested that, had Iraq adopted from the beginning a federal system of regions for each faith – Shiite and Sunni – that guaranteed the fundamental rights of the various religious groups, the country would have been much safer.<sup>76</sup> For example, Kurdish federalism and self-government are potentially the secret to Kurdistan becoming the most secure region of Iraq, having a better system of governance and enjoying greater political and economic development than the rest of the country;

---

76 Following the death of the Prophet Mohammed in 632 CE, there was a disagreement over who was the correct successor to take power (i.e. to represent the state as Caliph, or president). The Mohajirs (who first converted in Mecca – Mohammed's home town – and migrated with the Prophet to Medinah) supported one of their number (Abubakr Sadiq, the Prophet's Mohajir father-in-law) to take power, while people from Medinah (the Ansars, who hosted and supported the Prophet and the Mohajir immigrants) wanted one of their group to become Caliph or Mohammed's cousin Ali to become Caliph.

However, after some disagreements, they all agreed that one of the Prophet's best friends, Abu Bakr, should become Caliph. Two years later he was assassinated, and another close friend of the Prophet, Omar, took power, but he too was assassinated in 644, when another Mohajir, Uthman, was elected. He was assassinated in 656 CE by a group of unhappy Muslim rebels, leaving the Prophet's cousin Ali finally to become Caliph at the end of a very tumultuous period.

Ali quickly moved to replace Uthman's family in positions of power across the caliphate. Although this made the rebels and Ansar happy, it quickly alienated the Mohajirs, including the Prophet's widow Aisha. In a series of confrontations called the Fitna, Ali faced off against opponents. A group of Mohajirs led by Muawiyah (cousin of the third Caliph, Uthman) overran Ali's appointed governors by force and became the de facto Caliph.

In 661, Ali was assassinated and his son Hasan ibn Ali negotiated a peace treaty with Muawiyah.

However, when both Hassan and Muawiyah died, Hassan was replaced by his younger brother Hussein ibn Ali and Muawiyah was replaced by his son Yazid. The two broke the peace agreement signed by their predecessors, as Hussein refused to pledge allegiance to Yazid. The latter declared war against Hussein and his army massacred Hussein's forces at the Battle of Karbala on Muharram 10, 61 AH (10th October, 680 CE). This day is venerated by many Shias as the day of Ashura and marks the irreversible split of the Sunni (supporters of Yazid at the time) and Shia (supporters of Hussein).

Unfortunately, it is impossible now to settle the score between Sunnis and Shias because the prize they fought over no longer exists. Although both Sunni and Shia believe in the same Qur'an, they have different books of hadith (the sayings of the Prophet), they have different interpretations for Qur'an and hadith. The vast majority of Muslim countries are ruled and populated by overwhelming Sunni majorities. Notable exceptions include Iran and Iraq (where Shias rule Shias), Bahrain (where a Sunni minority rules over a Shia majority), and Syria (where an Alawite-Shia minority rules a Sunni majority).

without them, Kurdish cities would have fared no better than those under Iraqi government control. However, here one should not forget the other factors that contributed to success in Kurdistan: it had already been enjoying a form of self-governance since 1991 and the region began to form its own democratic institutions relatively early compared to the rest of the country (Fawcett and Tanner, 2002).<sup>77</sup>

Apart from the benefit of preventing war and conflict, federalism in Iraq can also support the improvement of QoG through the mechanism of separation of powers between the regions and the centre. As mentioned by Hunter, Ingleby and Johnstone (1995), if the main function of a constitution is to set out the legitimate powers of each branch of government and place restrictions on the exercise of power by the government, it might also be argued that the separation of powers between regional entities and the central government is a mechanism to prevent the concentration of too much power in the hands of the federal state.

There is a broad debate among scholars about the relationship between democracy and federalism; most scholars argue that the correlation is a positive one (e.g. Kleinerman, 1994, p.416). Federalism has been considered as a significant institutional instrument for improving political stability and the democratic process. For example, it has been argued that the model federations in the former USSR and Eastern Europe failed to solve ethnic issues due to the fact that power in the USSR was highly centralised, and that there was no real will to share power and, hence, no real autonomy (Bhattacharyya, 2010). By contrast, Schmitt (1983) denies any real positive correlation between democracy and federalism. In this context, Elazar (1987) argues that democracy may be necessary for federalism to succeed, but it is not sufficient and not the only factor that could guarantee it.

---

77 The 2005 constitution permits two or more governorates to decide through a referendum to merge to establish a new region (see Article 119). However, in practice we have yet to determine the extent to which these governorates are contributing to the progress of democracy in the region. Considering the de facto circumstances in the Kurdistan region, other autonomous governorates in Iraq may not enjoy the same level of autonomy that exists in Kurdistan.

The federal system in Iraq has to some extent supported the transition to democracy. However, at the level of local administration, the system has very limited positive impact on government institutions. Federalism by itself could not provide popular control over the decision-making process and the rulers. For instance, the KRG has not guaranteed citizens equal opportunity in obtaining public-sector jobs; rather, recruitment has been dominated by the major political parties. However, it is reasonable to conclude that, despite these defects at the local level, at least until 2014 – before the war with ISIS – federalism has to some extent contributed to the development of democracy in Iraq, and as a peaceful solution federalism has prevented violence and the country's dissolution (Babakhan, 2007, p.167).

Speaking in 2006, Jalal Talabani (President of Iraq from 2005 to 2014) strongly criticised centralisation:

I think that the centralised system was a cause of all the problems in Iraq. Centralism has led to persecution and oppression and to waste the wealth of Iraq ... By contrast, federalism would lead to satisfying the people through giving guarantees about the distribution of power and wealth fairly among them. (Talabani, 2006)

The new constitution is based on building a new Iraq by adopting new political and administrative systems that are supposed to be on the basis of decentralisation and democracy – a system that gives rights to the main nations of Iraq as well as minorities by adopting the federal system, as indicated in Article 116 of the Iraqi constitution which states that “the federal system in the Republic of Iraq is made up of a decentralized capital, regions and governorates, as well as local administrations”. Article 120 of the 2005 constitution holds that “Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution” (Iraqi Constitution, 2005).<sup>78</sup> Because of this, the Kurdistan Region enjoys great political and

---

<sup>78</sup> The referendum held on 15 October 2005 to approve Iraq's new constitution was the most important step in defining and thus institutionalising the country's democracy. 78% of voters backed the constitution and 21% opposed it (BBC News, 2005).



financial autonomy. It has its own regional parliament, military forces, and manages its own financial affairs, which enables it to perform much better than the rest of Iraq in relation to the economy, security, and stability (KRG website, 2014).

Kurdistan has significant legislative powers. For example, Articles 120 and 121 of the Iraqi constitution allow the region to enact its own constitution and laws to regulate its internal affairs. Furthermore, the Iraqi central government has no authority to dissolve the autonomous legislature, and the Kurdistan parliament may pass laws on any issue except for those stipulated in the exclusive authorities of the central government.<sup>79</sup> The members of parliament and the president of the Kurdistan Region are elected in general elections with no interference by the Iraqi government – a positive feature of Iraq’s federal system (Stilt, 2014). Furthermore, Articles 119 and 120 allow the Kurdistan Region to have its own governing institutions and to enact its own legislation and adopt a regional constitution that identifies the structure of its authority and provides appropriate mechanisms for its own administration. The extent of the power granted to the Kurdistan Region by the Iraqi constitution led some writers to argue that this model of federal system has features of confederation rather than federalism. For example, in the event of regional laws conflicting with those of the central government, in most federal systems around the world priority is given to central government law, whereas under the Iraqi constitution priority is given to the laws of the Kurdistan Region (Ahmed, 2009).

Another positive element provided by Article 121 is the granting of power to the regions to establish their own executive, legislative and judicial branches. Article 121 (3) grants the Kurdistan Region a fair share of the national revenue, in the light of the region’s resources and the size of the population. Furthermore, Article 121 (4) gives rights to the region to establish consulates and diplomatic missions, to pursue cultural, social and

---

<sup>79</sup> Article 121 states:

“First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government. Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region.”

economic affairs and in Article 121 (5) it is given the right to have its own regional police, security and defence forces to maintain internal peace and security.

This constitutional security for Kurds grants opportunities for the region to achieve great success in relation to security and economic development. The peaceful relationship with the Iraqi government achieved by virtue of the constitution to some extent allows Kurds to establish security in the region and rebuild the economy. This secure and stable environment allowed national and international companies to invest in the region, which has led to rapid economic growth (UK All-Party Parliamentary Group on the Kurdistan Region of Iraq, 2011).

Notwithstanding the benefits the Kurdistan Region gained from the federalism system, some Kurdish writers and politicians do not consider it a real solution for Kurdish national questions. Dr Sherzad Al-Najar of Salahaddin University has argued that it is possible for federalism to be applied to the whole of Iraq, but the question is whether this could lead to the maintenance of political equilibrium or to a failure of the political process. Al-Najar believes that it would be difficult to presume the success of federalism, especially where society is deeply divided along religious and ethnic lines. Currently the essential fear for Kurds is that they do not trust the Arab majority, either Shia or Sunni (Gairdner, 2012). Most Arab politicians do not support federalism, rather they see the current political situation as a *de facto* exception on the basis of political consensus. However, at any time this consensus might become unworkable or fail to continue, depending on the strength of power of the central Iraqi authorities, particularly given that the Kurds are a minority in Iraq, and consequently their voice might not be heard by the parliament or the government (ibid.).

This research outlines four essential issues between the central Iraqi government and the KRG, which remain a source of dispute between the two:

1. A dispute over the areas where the majority of the population are Kurds and historically considered part of Kurdistan, such as Kirkuk, Khanakin and Jalawla. This dispute was supposed to be resolved under the provisions of Article 140 of the Iraqi constitution before December 2007;

2. Disputes between the KRG and Baghdad over the extraction and sale of oil, and associated revenue;
3. The legal position of the Kurdish forces (Peshmerga) and their rights and duties. Kurdish forces actively participated in the liberation of Iraq in 2003 and in fighting terrorists;
4. The culture of dictatorship and monopoly of power by the centre, which has been deeply rooted in Iraqi society for many decades, has had a negative effect on the opinion of the majority of Arabs about accepting genuine federation for the Kurds and democracy for Iraq.

The above dilemmas make it difficult for federalism to work properly and they lead to regular disputes between the KRG and Baghdad. Indeed, most of the interviewees identified these issues with the Iraqi central authorities as a major barrier to the democratic process as well as contributing to the deficiency of the federal system in Iraq.

The interviewees proposed five factors which should be considered in relation to federalism:

1. Federalism in Iraq should be on the basis of territory and ethnic identity of Kurds and Arabs, not of regional administrative autonomy as proposed by Arabs during negotiations about the 2005 constitution;
2. For a peaceful resolution of disputes over land, both sides must refer to Article 140 of the constitution, which refers to a referendum on the issue;
3. The process of sharing power and financial resources should also be based on equal participation between Kurds and Arabs;
4. Both the KRG and Baghdad must strictly and honestly adhere to the provisions of the constitution, in particular the democratic principles and respect for human rights. A stable and democratic government is essential for developing a federal system;
5. A successful federation in Iraq can only be achieved if there is the political will to ensure protection for different ethnic and religious groups (interviewees 2, 6, 13, 15, 23, 29, 33 and 34).

This research agrees with former president Jalal Talabani's suggestion that "the principle of consensus is required to maintain and balance the country's stability and unity. However, the political consensus should be based on efficiency, human rights, fairness and full equality between citizens."

In conclusion, it could be said that, for the Kurdistan Region, federalism has been and could be considered essential because this system could guarantee rights as provided by the constitution and could be a roadmap towards deepening the roots of democracy in Iraq. A true federalism based on the democratic principle could secure a stable Iraq and give Kurds the reassurance to feel secure and to protect their national identities against the oppression they have been suffering for many years. Consequentially, successful federalism in Iraq is associated with QoG in the Kurdistan Region, because this can provide internal security in the region and more opportunity for viable institutions for local capacity-building, and at the same time enable citizens and the political opposition to fight corruption and maladministration by the ruling parties.

## Chapter 5

### The Concepts of State, Democracy and QoG

In order to provide an analytical framework for the implementation of a constitution in a democratic state such as Kurdistan, essential concepts such as state, democracy and QoG should be outlined because they are connected to the enforcement of laws and the constitution. This chapter provides a definition of these concepts and then explains how they are related to each other and to this study. Further, the chapter outlines how democracy relates to QoG and what is the role of the state in the process. Finally, it presents a discussion about democratisation and the obstacles that hinder the process of democratisation and QoG.

#### The State

As this study analyses the implementation of democracy in Kurdistan as a means of improving QoG, and attempts to explain why the principles of the constitution are not being delivered, it is necessary to explore the concept of the state, the difference between state and government, and the essential functions of the state, and finally to outline the criteria for state capacity. These inputs are important to this study because the state is one of the essential bodies of governance, which includes institutions through which the constitution could be implemented. In addition, constitutional law is the foundation of the state, as it determines how a state exercises its authority and how state institutions relate to citizens (Rose-Ackerman, 2010c).

#### *What is “the state”?*

The traditional elements of a state can be derived from the 1933 Montevideo Convention on the Rights and Duties of States. Article 1 of the convention establishes that, for a state to exist, it should possess the following: (a) a permanent people; (b) a defined territory; (c) government; and (d) the capacity to enter into relationships with other states.

There are multiple, imprecise definitions on the phenomenon of state. Mann (1993, pp.54–5) defines the “messiness” of the state as being a problem of mixing two different

levels of analysis: the institutional and the functional. To explain the concept of the “modern state”, Mann relied on Max Weber’s (1946) definition; he defined the concept as a state with “added routine, formalized, rationalized institutions of wider scope over citizens and territories. It penetrates its territories with both law and administration” (Mann, 1993, pp.56–7). The most relevant definition for this study is that provided by Mann, who suggests a mixed but mainly institutional definition that originated with Weber’s, which describes the state as “a compulsory political organization with a centralized government that maintains a monopoly of the legitimate use of force within a certain territory” (cited in Cudworth, Hall and McGovern, 2007, p.95).

### ***What is the difference between state and government?***

The state differs from the government in a number of ways (Joshi, 2010). First, the state is more significant than the government and is the essential, permanent base of a country. The existence of a state does not depend on the government, as the latter refers only to the executive branch of the state and can be changed (“the government of the day”). Second, the state is also broader than the government: it includes all the institutions of governance and the coercive institutions (such as the police, military forces and the courts). The state is a continuous and permanent administrative, legal and law-enforcement agency that works not only to physically regulate relationships between people and public authority in a particular territory but also to build many important relationships within society (Sellers, 2010). Hence, in discussion about the democratisation process or improvement of QoG attention must be paid to the state as well as the government. In particular, the state and its institutions in a liberal democratic country are significantly linked to QoG as the state exists to perform two essential roles in order to serve the public interest: 1) deliver public services for all citizens equally and 2) protect the fundamental rights of all citizens without discrimination (Olaya and Hussmann, 2013). In this regard, it is important to bear in mind the essential role of constitutions as fundamental supreme law that allocate power to the various state institutions and regulate the relationships between the state and citizens and determine who gets the power. In particular, the constitution aims to restrict the abuse of power of the state and to guarantee the rights of citizens (Montes and Vial, 2005).

### ***Functions of the state***

As mentioned, the state is required to perform two essential roles: 1) deliver public services; and 2) protect the fundamental rights of all citizens as determined by the constitution and law. For any state to fulfil its obligations under the constitution, it must possess “state capacity” or state strength, which generally refers to the level of the state’s control over citizens, institutions of governance and resources within its territory (Rotberg, 2004, pp.2–4). States should have different types of capability: symbolic, extractive, coercive and incorporative. Christopher (2004) and Daniel et al. (2015) break state functions down into different elements that are required in any modern state, including:

1. The monopoly of legitimate violence to enforce the law and constitutional rule.  
The state also exercises coercion to be able to protect its people and entities from foreign aggression and to maintain civil order. Consequently, it needs to build up its military force and police force, which are critical for a modern state;
2. The capacity to extract and control resources such as natural resources, taxes and customs, and use them for national purposes;
3. Assimilation (a process by which a state acquires the social and psychological characteristics of people to produce societal consent that reduces the cost of state coercion in relation to the enforcement of laws and regulations). In this regard, some level of nation-building such as family, religious and ethnic groups by a single, secular, national authority is necessary;
4. The regulation of society and the economy in the form of modification and organisation of the behaviour of individuals;
5. An effective and coherent administration system able to create trust between the state and the public;
6. A fair redistribution of scarce resources which can promote social order and enhance legitimacy; and
7. Compliance with international responsibilities, such as respecting international law and compliance with treaties and agreements with other states.

Helman and Ratner (1992, p.3) state that a “failed nation-state” is “utterly incapable of sustaining itself as a member of the international community” and “depends on steady streams of foreign assistance”. In this context, Rotberg (2004, pp.2–7), an American

scholar, has broadened the concept of state failure by creating a scale in which states are segregated into “strong”, “weak”, “failed” and “collapsed”. Rotberg identified some elements that are important in the distinction between weak and strong states. One of the elements is the level of effectiveness in the delivery of the most essential public goods, such as communications, transport, healthcare and water supply, and the ability to protect citizens from human rights violations. The failed state has no such governing powers to enable it to fulfil its obligations towards its citizens. Rotberg suggests that there is a hierarchy of public goods, in which priority must be given to the more significant ones, and argues that public security is ranked first. Other fundamental functions of a state are the ability to uphold the rule of law and, in a democratic state, the ability to enable citizens to take part in the political process and free and fair elections. Rotberg defines state strength as the capacity to produce human well-being and political goods such as public security, education, good healthcare and economic growth. In his words, strong states can produce those goods; weak states are limited in their production, and failed states are unable to produce any at all (2004, p.3).

This study does not argue that Kurdistan is an independent state but, as mentioned in the 2005 Iraqi constitution, Kurdistan is considered a regional state sharing power and resources with the Iraqi central government under a federal system. However, from examination of the capacity of Kurdistan to perform its duties as a state, it can be concluded that it possesses all the above capacities mentioned by Rotberg. For example, according to the official KRG website:

1. The Kurdistan Region has its own military, police and security forces, by which the state enforces its laws and protects its people;
2. The KRG has full capacity to extract and control resources, such as natural resources and taxes;
3. It possesses the means to produce societal consent such as family, religious institutions and organised tribal activities;
4. It has proper regulations and rules for society and the economy, both to protect society from criminal activities and to promote the material welfare of society;
5. There is a structured government bureaucracy;



6. The KRG's institutions possess the power of redistribution of resources in the form of a national health service, an education system, water, electricity and other state welfare systems; and
7. In relation to international responsibilities, although the KRG has a strong relationship with the international community, in particular the US and Europe, Kurdistan is considered part of Iraq under the constitution.

## **Democracy**

### ***What is a democracy?***

There are various definitions of democracy<sup>80</sup> in the literature, although the precise understanding of the concept is vague and controversial. Democracy is traditionally defined as “rule by the people, either directly (pure democracy) or through representatives (Republicanism)”.<sup>81,82</sup> This definition is compatible with that provided by Abraham Lincoln: “government of the people, by the people, for the people”. Bryce (1921, p.26) defined democracy as a “form of government in which the ruling power ... is legally vested, not in any particular class or classes, but in the members of the community as a whole”. Thus, in a democracy, a sole source of government legitimacy is the will of the people, and on this basis their interest should be given priority to justify laws and policies.

Generally speaking, democracy refers to a form of government in which the citizens rule themselves; in contrast to monarchies and aristocracies,<sup>83</sup> democracy appreciates the

---

80 “Democracy” is rooted from the Greek *demokratia*, the meanings of which are *demos* (“people”) and *kratos* (“rule”) (Bassiouni, 1998).

81 The Babylon Dictionary of Political Science. Available at <http://dictionary.babylon.com/democracy/> [Accessed on 18th October, 2015]

82 Representative democracy has been considered as limited and indirect, but is the most popular form today. It is limited as people's participation is restricted to the right to vote every few years. Instead of direct participation in decision-making, the public merely elects those who will rule on their behalf. This type of democracy can have a positive effect on QoG insofar as representation forms a close and effective link between the government and the citizen.

83 “Monarchy: 1. a state or nation in which the supreme power is actually or nominally lodged in a monarch. 2. supreme power or sovereignty held by a single person.” Available at: <http://dictionary.reference.com/> [Accessed on 13th October, 2015]

value and the fundamental equality of all individuals in the state and also presumes that individuals are rational and have the ability and right to participate in the government process (Samuels, 2006). According to Beetham (2009, p.282), democracy should be understood as one end of a spectrum, while the other end is a system in which individuals have no influence at all over the government's policy-making process.

Democracy maximises the freedom of self-determination through providing opportunities for citizens to participate in the process of governance and to live under laws of their own choosing. Furthermore, democracy in newly formed states permits public participation in preparing a draft constitution through their representatives as well as voting on the text in a general referendum (Maruste, 2007). It is therefore necessary to give particular consideration to democracy in this study, in particular as both the Iraqi and the Kurdish constitutions are considered democratic. As different models of democracy exist, it is vital for this study to identify which model the Iraqi and Kurdish constitutions follow.

Historically speaking, there are various models of democracy. The traditional classic democracy of Greece is different from modern liberal democracy, and both differ from Marxist radical democracy. The situation in countries where the constitution limits the power of the people is quite different from that in a popular democracy, in which people are free to influence laws, regulations and the policy of the government.

### *Classical democracy*

This refers to the *polis*, or city-state of Ancient Greece. In the Athenian model, governance processes were conducted through mass meetings, at which the Assembly (to which most people belonged) discussed and took decisions on important issues.<sup>84</sup>

---

"Aristocracy: A privileged, primarily hereditary ruling class, or a form of government controlled by such an elite." The American Heritage® New Dictionary of Cultural Literacy, Third Edition. Published by Houghton Mifflin Company. Available at <http://dictionary.reference.com/> [Accessed on 13th October, 2015]

<sup>84</sup> According to Dahl, officials were chosen by ballot to ensure direct citizen participation. However, those who had rights to attend meetings of the Assembly, which were held 40 times a year, and to vote had to be male citizens over 20 years of age. The Assembly's decisions were taken by majority vote and

This form of democracy is considered as the only ideal system of real and direct participation by the people. One of the fundamental aims of this direct form of democracy was to assure the citizen rights and protection from the encroachment of government by participating in decision-making directly. This model of society was based on equal opportunity for all and citizen merit, rather than hierarchy and privilege. Due to population increases, the practice of this form of democracy is impossible today (Dahl, 1998, pp.35–7).

### *Republicanism*

Republican democracy relies on promoting the concepts of liberty, self-government and the active citizen. Locke (1690, §140) suggested that if government, through taxation, has capacity to collect finance from citizens, citizens should be given the right to participate in the decision-making process and be entitled to control the formation of the legislature. Democracy by this means is a system of government established by and operated by citizen consent, through their elected representatives (Held, 1996, pp.44–6).

Rousseau developed the justification theory of republican democracy by having an alternative meaning to the democratic theory as “the theory of social contract between the state and the citizens”. Rousseau argued that democracy should be considered as the general will of the citizen and the genuine interests of society, equivalent to the common good. He suggested that “no citizen shall be rich enough to buy another, and none so poor as to be forced to sell himself”. Rousseau’s model of democracy requires economic equality and a welfare system in the state (Held, 1996, pp.91–3).

### *People’s democracy*

The term “people’s democracy” was first considered by the communist regime. The Marxist view of democracy is that power cannot be equally shared by citizens in society as long as society is ranked in different classes and rights are unequally distributed. Karl Marx suggested the principle of a democracy based on equal prospects and the sort of society in which there is common ownership of wealth and property (social democracy).

---

then became binding in law. Citizens could become Assembly members only for one year, and no more than twice in a lifetime, with the exception of ten generals, who could be re-elected.

He argued that the ending of capitalism was the only way to achieve a genuine system of “proletarian” democracy to replace “bourgeois” democracy. He proposed that the class struggle would disappear and that the state would wipe away the various classes to leave only one class in society (Berger, 2002).

### *Liberal democracy*

The liberal democratic system is known for the principle of the separation of powers, respect for civil and political rights, and an active and independent judicial system that upholds the rule of law. Liberal democracy is a modern form of representative government accepted as the universal practice of politics in the world today (Held, 1996).<sup>85</sup>

Liberal democracy is structured on the principles of competition and electoral choice. It is a representative form of democracy in which citizens vote in a popular election for those they wish to represent them. This model of democracy can be either a representative government, where the representatives are given a free choice in making decisions as they think best benefit the people, or that of representative democracy, where the people have control over their representatives and expect them to pay particular attention to their will, and accordingly the representatives are accountable to those who voted for them (Berger, 2002).

---

85 Fukuyama (1989) considered that the end of the Cold War represented the end of history, suggesting that liberal democracy had become the dominant theory of democracy and was now approved by the majority of states in the world. Further, in his essay “The End of History”, Fukuyama suggested that western liberal democracy’s balance between liberty and equality could not be bettered, and that its attainment would spread and achieve a general calming effect on world issues. He also wrote, “What we may be witnessing is not just the end of the Cold War, or a passing of a particular period of post-war history, but the end of history as such: that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human government” (Fukuyama, 1989).

### ***Democratic constitutions and Islam***

Although, on a different level, both the Iraqi and the Kurdish constitutions enshrine Islamic jurisprudence, at the same time they combine this with a liberal democratic model. This thesis therefore gives particular attention to the relationship between Islam and democracy.

As a part of the Muslim world with an almost 95% Muslim population, the Kurdish culture is mainly derived from the principles of Islam. Religion in Muslim societies influences the characteristics and attitudes of all individuals in almost all aspects of life. Investigating the general impact of Islam on Muslim societies, Al-Haj (1996, p.56) claims that: “Islam is the base of determining the relationships among people and it is the determinant of almost all social and cultural values”. He further points out that, unlike European and other Western people who value national identity, religion is most important to Muslims and influences all aspects of Muslim life. Hence, when we talk about democratic constitutions we should not ignore the impact of Islam on the constitution as well as its role on people’s attitudes in implementing the constitution.

Important Islamic political thinkers of the early 20th century – such as Abu Alaa Al-Mawdudi (1903–79), Allama Iqbal (1877–1938) and Hasan al-Banna (1906–49) – have provided new understanding of the relationship between the state, citizens and government institutions. Their opinions have influenced many Islamic constitutions, which attempted to combine democracy and Islam (Nasr, 1994, pp.3–12). For example, although Al-Mawdudi rejected the view of separation of religion and the state, he suggested that the modern Western model of governance should not be rejected as long as it is compatible with the fundamental provisions of Islam and based upon Sharia Law (Mawdudi, 1967). Allama Iqbal, an Islamic reformer, also put forward proposals for establishing a state of Islamic democracy. He was an advocate of freedom, individuality and equality, and considered them to be at the core of Islam and necessary ingredients of liberal democracy. He concluded that democracy was also Islam’s most important political ideal, able to achieve equality and freedom (Esposito, 1983, pp.241–248).

Another Islamic scholar, Fathullah Gülen, argues in his 2006 essay *A Comparative Approach to Islam and Democracy* that Islam never proposed a particular, rigid form of governance, but rather provided fundamental principles on which a government should

be formed. He argues that Islam leaves it to people to choose the most appropriate system of governance according to their needs and the times. From this point of view, he insists that democracy can today be considered the best system of governance in which justice and human rights can be achieved, and is therefore preferred by many Islamic scholars. However, he suggests that democratic practice varies according to the places and circumstances in which it is practised. Furthermore, Gülen believes that the Islamic values of justice, equality and tolerance can support us in looking forward to a better future; Islam should not, therefore, be restricted to any rigid form of political system (Gülen, 2006).

There are two concepts in Islam that outline the relationship between it and democracy:

1. The intellectual basis for establishing Islamic democracy is the concept of *shura* (consultation), which derives from the Qur'an and is agreed by almost all Muslims. The provision of *shura* is mentioned three times in the Qur'an, commanding Muslims to consult one another in relation to three types of affairs: political, economic and social matters;
2. Consensus (Arabic: *ijmaa*), according to which the ruler must be elected by the people and what the majority of scholars agree upon becomes legislation. This provision presupposes that what most of the community agrees upon cannot be wrong because it is guided by divine authority (Malinova, 2012).

However, followers of the extremist vision of Islam – represented by al-Qaida, Hizb ut-Tahrir, Hezbollah, the Taliban and ISIS – reject the entire democratic system and they consider it to be against the most fundamental principle of Islam because they think that democracy is a man-made system (“rule by the people for the people”) and consider it to be contrary to Islam as they believe that the only rule is that of Allah, the Almighty, and it is not permissible to give rights to people to enact laws and regulations (Ashour, 2005).

After introducing Islamic countries to the secular system, Islamic scholars in many Muslim countries attempt to adopt Islamic democracies.<sup>86</sup> These societies adhere to Islam and its way of life, but they also value the principles of democracy and liberal democracy. Since democracy obliges the authority to give consideration to the interest and will of the people, this increases the desire of Muslim society to become democratic (Al-Samak, 2010). In this respect, the two main Islamic parties in Kurdistan accept democracy as a system and claim that they practise democracy in their own party system. For example, a KIU politician (interviewee 14) stated:

My party is a modern Islamic party. We accept democratic principles, and practise them inside our party; our members have the right to express their opinion freely, and can criticise anyone in the party; and we hold internal elections.

This was confirmed by a PUK MP (interviewee 24), who stated:

All the secular parties such as PUK, KDP, Gorran and others claim to be democratic and work to establish a democratic state. The Islamic parties also claim to be democratic and that they accept democracy.

The 2005 Iraqi constitution clearly recognises Islam as the formal religion of the state as well as a fundamental source of legislation. Article 2 states that “Islam is the official religion of the State and it is a fundamental source of legislation: A. No law that contradicts the established provisions of Islam, the principles of democracy and the rights and basic freedoms stipulated in this Constitution may be established” (Iraqi Constitution, 2005). Due to the ambiguity in this type of constitution, some scholars fear that an Islamic constitution may become an obstacle to a country’s ability to develop a democratic system of governance where human freedom and liberties are protected (Kolhatkar, 2004).

---

86 The Free Dictionary defines secularism as: “1. Religious scepticism or indifference. 2. The view that religious considerations should be excluded from civil affairs or public education”. Available at <http://www.thefreedictionary.com/secularism> [Accessed on 12th December, 2014].

The National Secular Society (UK) states that “Secularism is a principle that involves two basic propositions. The first is the strict separation of the state from religious institutions. The second is that people of different religions and beliefs are equal before the law.” Available at <http://www.secularism.org.uk/what-is-secularism.html> [Accessed on 12th December, 2014].

However, the constitution does not make Islam the sole source of legislation, but obliges the parliament also to give consideration to the fundamental principles of democracy such the basic political rights and freedoms. The second paragraph of Article 2 of the constitution states that “this Constitution guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights to freedom of religious belief and practice of all individuals and groups such as Christians, Yazidis, and Mandaean Sabaeans” (Iraqi Constitution, 2005). Thus, the new constitution attempts to strike a balance between the role of Islam and the role of democracy and the fundamental rights and freedoms of citizens. In this context, several questions arise: How do parliament and the courts interpret these provisions? What impact do they have on legal systems? How broadly must these principles be agreed upon before the government, or a court, can invoke them to invalidate laws? After a long debate over Article 2, a compromise was reached on the phrase “established provisions”, which was considered to be situated somewhere between the restrictive “universally agreed” and the excessively broad “tenets”.

One concern for Kurdistan is that the Iraqi constitution places particular emphasis on the established provisions of Islam, which gives religious leaders scope to influence jurisprudence on controversial issues (Pimentel and Anderson, 2013). How do the courts address these issues, and who determines the identity of the religious leaders upon whom parliament and the courts must rely for answers to questions related to the requirements of Islamic principles? These issues may well expose the courts to outside influences and compromise their independence. For instance, if Article 2 were interpreted to require courts to work under the influence of *fatwas* – non-binding scholarly interpretations of Islamic law – then anyone authorised to issue a *fatwa* would have direct power to dictate the decisions of judges and undermine the rule of law (ibid.).

Furthermore, there is no universal agreement on the exact meaning or boundaries of the term “established Islamic provisions”, which is subject to various interpretations. Concerns also arose that the concept could be interpreted in a way that obliged the parliament and the courts to rely on *fatwas*, to strike out otherwise valid laws under Article 2 (7). In addition, there was concern about what school of thought the term



“provisions” relates to, as any single school of *fiqh* – the human understanding of Islamic shariah – might be considered an established provision of Islam.

Islam as a religion insists that sovereignty should only derive from the Qur’an and the Sunnah. Muslims view the Qur’an as the main source of jurisprudence. However, it is Muslim scholars who manage to harmonise Islam and democracy, and they interpret the verses of the Qur’an so as not to contradict democratic principles (Al-Samak, 2010). However, one of the arguable questions is whether parliament is free to enact a law that disregards, modifies or goes against the Qur’an or Sunnah – for example, to disregard the punishment of theft by amputating a hand, or modify the punishment for adultery. Can it permit homosexuality? Apostasy? Democracy requires that people’s representatives be allowed to enact any law within the boundaries of the constitution, but in theory Islam has its own moral views and characteristics that reject these issues. While these arguments might seem irresolvable in theory, in practice many established provisions of the Qur’an have been disregarded by the Islamic Khalafa in times of crisis – for example, during the time of Khalifa Umar, the punishment of theft by amputating a hand was stopped.<sup>87</sup> Umar did this by exercising discretion because people were living in poverty; he believed that this form of punishment was only binding in a truly Islamic society when the state could overcome poverty among its people (Al-Samak, 2010).

As this study focuses on the implementation of the constitutions, particular attention must be given to the effect of Islam on the democratisation process. This subject became a great source of argument among Muslim scholars after Samuel Huntington published *The Clash of Civilizations* in 1996. Huntington claimed that the new circumstances of the 20th-century world order could evolve into a clash between Western and Eastern civilisations. He considered this clash as part of Muslim resistance and opposition to modern democratic development and modernity. He claimed that Muslim societies are infertile ground for democracy, and further argued that the liberal democracy model in particular would continually fail to work in Muslim countries. Although Huntington’s book made news at the time and his arguments were accepted by many scholars, it failed to provide concrete empirical evidence for resistance to democracy in Muslim countries (Al-Samak, 2010). Other scholars, such as Anderson (2004), also argue that Islam is not

---

<sup>87</sup> Umar ibn al-Khattab, the second khalifa of Islam.

compatible with democracy because adherence to a fixed religious text and the lack of distinction between political systems and religious opinion is contradictory to democratic principles and opposed to democratic development. Anderson uses the lack of true democracy in the Muslim countries as evidence for his claim that, apart from Turkey and Pakistan – which he considers have some form of democracy – Muslim countries have generally failed to adopt a democratic system (Anderson, 2004).

The fundamental question with respect to Islamic democracy is: what *is* that form of democracy – the minimalist definition that focuses on free and fair elections and guarantees of civil liberties and freedoms (Mikaelsson, 2008), or a way of life that includes human rights, liberty, participation in the decision-making system and free and fair elections (1927, p.184)? Islam has various faiths and different schools of thought; for example, the Sunni and Shia faiths have differing views on Islam and democracy.<sup>88</sup> Different faiths of Islam and different schools of thought might have different interpretations of Islam and democracy. Secondly, these writers ignored the significant role that culture and geographical differences can make in different Muslim countries: for example, the Gulf States have a very different view of Islam from Turkey and Indonesia, and the Iranian school of thought is fundamentally different from the Saudi, Iraqi and Egyptian (Kim, 2008).

In an empirical study, Kim (2008) examined whether commitments to religion will have an effect on democratic attitudes. Using data from World Values and European Values Surveys between 1999 and 2001, she concluded that religious beliefs have little or no effect on support for democracy; although religion might mean particular values and associations for an individual, it appears less significant to the production of democratic attitudes. In particular, she found that “Muslims and members [of] other religions give about the same support for democratic ideals and leadership” (Kim, 2008). Hence, it

---

<sup>88</sup> The Shiites are a majority in the Iraqi population, concentrated in the middle and south of Iraq, while the Sunni minority is situated in the north and west. Since the end of World War I, Sunnis have ruled Iraq, often brutally. In 2003, following the collapse of Saddam’s (Sunni) regime, Shiites took power. In June 2014, militants of ISIS (Islamic State in Iraq and Syria) – an extreme Sunni force – crossed from Syria into Iraq and have taken advantage of the anger of the Sunni population to fight against the Shia and Kurds (adapted from Mintz, 2014).

could be said that the arguments advanced by Huntington and other scholars about the rejection of democracy in Muslim societies do not constitute a robust claim. Rather, Muslim societies are keen on democracy; although they might oppose an American form of it being imposed on them. They still believe in and struggle for a political regime that is democratic, as demanded by the recent so-called “Arab Spring” uprisings.

While Islamic principles may resist certain rights associated with Western culture, such as civil marriage or homosexuality, it has been argued that the understanding of the concept of these rights and freedoms might vary from culture to culture, and, as long as this does not go against the belief of the majority of people, this does not undermine democracy. Rather, restricting those freedoms that are against the beliefs of the majority could create moral and spiritual support for democracy (Ashour, 2005). In this context, a KIG politician (interviewee 4) expressed his belief that “we have no problems with democracy, but we have a Muslim society that has its own culture that needs to be respected”. One academic (interviewee 1) also stated that “democracy must be localised according to the nature and culture of the society”. Although it may differ from Western liberal democracy, this Islamic model of democracy – as in the Iraqi and Kurdistan constitutions – could offer a new understanding of democracy that suits Muslim society and is capable of implementation in practice, producing a better system of governance, at least in this part of the world. In particular, the Arab Spring uprisings for freedom and democracy in Tunisia, Libya, Egypt, Yemen and Syria demonstrated that Muslim societies tend to have some support for democracy but what hinders them is not Islam, but the iron-fisted authoritarian regimes in the regions. These uprisings also show that there are seeds of democracy in the Muslim world; people have a great desire for political participation, freedom and accountable government, and they are looking for an opportunity to build their own democracy.

From the above arguments, we can determine that Islamic influence in the Iraqi and Kurdish constitutions does not conflict with democracy and should not have a negative effect on their implementation. There is no strong evidence for Huntington and Fukuyama’s suggestion that Islam hinders democratic development; rather, their conclusions are based only on the lack of democracy in the Muslim world. However, there are alternative explanations for this, such as the powerful and hostile dictatorships mainly supported by the US and Europe, and the negative attitude of Muslims towards

the Western imposition of democracy. Hence, it could be argued that Islam does not hinder democracy in a state like Kurdistan, but certain cultural values might prevent Muslims from accepting the Western form of democracy. However, the best form of democracy is not necessarily the Western style, but one that

1. is more adaptable to shifting paradigms of modernity;
2. is able to utilise existing social and cultural values and norms to create a better, legitimate government; and
3. is capable of being developed and adjusted by the people (Provencher, 2011).

### *Different approaches to democracy*

Generally speaking, there are two theories of democracy – minimalist and maximalist.<sup>89</sup> For the purposes of this study each model is considered separately, in order to examine which might be the most useful to improve QoG and to determine which model is closest to the Iraqi and Kurdistan constitutions.

#### *The minimalist theory*

The exact origin of the minimalist model of democracy is the subject of dispute, but a significant foundation was laid down in the work of Max Weber. Weber advocated a parliamentary democracy because this gave citizens a chance to make the government accountable through their representatives in parliament and also provided a channel towards political leadership that he believed the masses needed (Mikaelsson, 2008). In Weber's view, the masses are unable to choose among different policies and need the guidance of a more knowledgeable political elite. Hence, democracy should be seen as a

---

<sup>89</sup> Robert Dahl introduced another version of democracy, which is best known for the mixed approach that can be considered as a compromise between the minimalist and maximalist theories. He suggested that democracy should be characterised by a number of features including equal competence among political elites; political competition; fair, clean, transparent and periodic elections; alternation in authority of plural political parties; protection of primary rights such as freedom of expression, the right of association and assembly; the rule of law; and the right to a fair trial (Mikaelsson, 2008). On the other hand, Dahl provided two institutional dimensions by which to measure the level of democracy of a political system in any state: "the degree of public contestation and [the] degree of participation" (Dahl, 1971).

marketplace for potential political parties and political manifestoes from which citizens should have the right to choose between the presented options.

Weber's theory received widespread support among scholars and other early advocates of a minimalist approach, including Ernest Barker (1942, p.26), who stated:

Democracy does not mean the well-being or prosperity of the people, but a method of the government of the people; and a democratic measure is a measure which originates from, or tends to promote, such a method of government – not a measure which tends to increase the amount, or to rectify the distribution, of prosperity or well-being.

Under this theory, democracy only gives people the right either to accept or to reject those who are to rule them. The minimalist theory thus only requires holding a free and fair electoral process. Certain freedoms are nevertheless required for producing free and fair elections – such as freedom of speech, of assembly, to organise and to publish – and these fundamental freedoms need to be respected within a democratic society because they are significant for an open and free political debate to take place and to conduct fair political competition, the bedrock of free and fair election processes (Mikaelsson, 2008). This is not only because it guarantees citizens the right to choose their representatives, but also because it functions as a safety valve through which individuals have the ability to hold political elites to account for their actions.

However, the minimalist approach excludes outcomes in the sense of the policies that are produced within a democratic system. According to supporters of this theory, a government produced by regular elections may be inefficient, corrupt, dominated by clientelism and private interests, and incapable of producing a system able to adopt and implement rules and regulations that are demanded by the public good. These descriptions may make such governments undesirable but they do not make them undemocratic (Mikaelsson, 2008). Therefore, this theory of democracy might not be very helpful in improving QoG because it narrows the concept of democracy. Restricting democracy to the electoral process undermines the aim of democracy in establishing a QoG that works in the interest of human well-being. A number of countries are recognised as democracies just because they hold regular elections, despite violations of

human rights and the domination of authorities by non-elected actors who, to some extent, control the elected politicians (Beetham, 2009).

### *The maximalist model*

The origins of the maximalist theory of democracy are to be found among scholars that viewed the concept of democracy more as a way of life than simply an electoral system. For example, the philosopher John Dewey viewed democracy as a society in which the government is only the expression of the political community and believed that it would be a mistake to minimise the concept only to the decision-making process. According to Dewey (1927, p.184), “the idea of democracy is a wider and fuller idea than can be exemplified in the state even at its best. To be realized it must affect all modes of human association, the family, the school, industry, religion.” Supporters of this approach extend the concept of democracy to include various aspects. However, they all agree that more inclusive principles, such as those mentioned, are needed with regard to the concept of democracy compared to what is recognised by the minimalist approach (Mikaelsson, 2008).

The principles presented by the minimalists, such as free and fair elections, doubtless curtail certain aspects of democracy, but the maximalist approach expands democracy to include a net of governance institutions and procedures that to a considerable extent guarantee civil liberties and human rights. These forms of freedoms and rights are conceptualised in the modern term “liberal”, which Diamond (1999, pp.12–18) attributes to a number of values that provide a greater chance of improving QoG. The first is the overriding of controlling power by politicians who are not accountable to the electorate, directly or indirectly. Military forces, for example, should not prevent the elected legislature from its legislative role. Second, state officials should be accountable both to the electorate and to one another, thereby restraining executive authority and developing a system that ensures constitutionality, legitimacy and the deliberation of the governing process. Third, political pluralism should be respected; principles such as the rule of law and individual freedoms and rights should be guaranteed. These rights and freedoms should extend beyond the electoral process, securing features such as different channels of expression and communication, political equality between citizens, minority rights, an independent judiciary and freedom of religious belief, opinion, assembly, demonstration,

media and petition. In addition, scholars agree that, for an election to be considered free and fair, voting should be based on the principle of political equality, in order to grant legitimacy to a political party (Dahl, 2006, pp.38–9).<sup>90</sup>

According to this approach, democracy must allow individuals to have their voices heard and to participate in the process of policy-making that relates to their interests and duties. The level of democracy in a particular state can be measured through the efficiency and adequacy of the government in fulfilling its duty in securing life and liberty, respecting human rights, social tolerance, and ensuring equality and justice. The government has to be accountable to the people and transparent in the conduct of its functions. Hence, democracy should be considered more a system of governance than a form of government, where it is opposed to arbitrary rule and guarantees protection of the rule of law, human rights and equality of treatment among its citizens (Raban, 2015). Hence, this study concludes that democracy according to the maximalist theory is the best democratic model for producing QoG, and is the best safeguard for respecting the rights and interests of all citizens.

As discussed in Chapter 1, the Iraqi and Kurdish constitutions provide more than an electoral system; rather, they provide for political plurality, an independent judiciary, ensuring equality and justice, respect for human rights, securing life and liberty, freedom of speech and media, and freedom of religious belief, opinion, assembly demonstration and petition. Thus, the two constitutions are closer to the maximalist approach of democracy. Furthermore, the interviewees' understanding of democracy in Kurdistan is – at least theoretically – close to the maximalist approach; for example, a former president of the Court of Appeal (interviewee 10) said that, for him, “democracy refers to a government in which supreme power is vested in the people”. In addition, a KIU politician (interviewee 14) commented that “democracy means good governance or a good society; without doubt, democracy starts from public awareness and public power, where this kind of society can work together to make changes towards good governance”.

---

<sup>90</sup> According to Dahl, political equality creates a form of legitimacy that is based on the principle of “one citizen, one vote”. This can only be achieved when every citizen has an equal say in determining who will take power and how it will be wielded. This can be seen as an indication that all citizens are equal before the law and treated equally without consideration of race, background or religion (Dahl, 2006).

## Quality of Governance

### *What is quality of governance or “good governance”?*

Scholars have not yet agreed on a definition of “good governance” or what this study calls “quality of governance” (Rothstein and Teorell, 2008). As might be expected, there are debates in the literature about how concepts such as QoG or good governance should be defined. Should it be about procedures only or should it include regulations, policies and outcomes? Should the concept of QoG be globally applied or should it be looked at differently in relation to different cultures? Is QoG the same as administrative efficiency or should it be considered as implying impartiality and efficiency?

A big problem is that scholars attempted to define what should be considered as QoG away from analyses of modern philosophy of politics and social justice, such as democracy and theories of justice. It could be argued that what should be considered as “quality” regarding how public regulations and policies and public-sector institutions are formed and operated should be dealt with primarily as a normative problem. Thus, the question of QoG cannot be treated without understanding the issue in the context of political philosophy, and social and economic outcomes. This study therefore discusses the concept of QoG from the perspective of political philosophy and its outcomes.

The *Oxford Dictionary of Current English* (1996, p.587) defines governance as “the act or manner of governing, of exercising control or authority over the actions of subjects; a system of regulations”. Landell-Mills and Serageldin (1991) agree that the concept of governance refers to how the state’s institutions are administered and how citizens are ruled, and that it also involves how the political system functions in respect to administration, law and regulations.

In a post-conflict state in particular, “governance” should cover three closely interrelated dimensions:



1. Security: This is the basis and prerequisite for governance, as the state is unable to perform its other functions without providing at least a minimum level of security;<sup>91</sup>
2. Political-administrative: The government must be represented by all the parties to the conflict and the state must be able to provide a minimum level of basic services to its people; and
3. Socio-economic factors: The post-conflict state is required to develop a fundamental economic structure that provides a degree of economic stability and equal distribution of goods, resolves ownership problems and provides basic social needs (Debiel and Terlinden, 2005, pp.3–15).

According to Hyden, Olowu and Okoth-Ogendo (2000, p.6), “Governance was never allowed to become a conceptual strait-jacket but was expected to function as a rather loose frame work within which each researcher could creatively explore political issues of significance”. In this context, the difficulty of distinguishing between basic norms and specific institutional configurations has led some to suggest that a universal definition of QoG is problematic or almost impossible (Rothstein, 2012). However, a failure to provide a universal definition of democracy would imply an inability to distinguish between democratic and non-democratic states. In particular, just as there are different methods of achieving democracy and political equality, there are other ways for achieving impartiality in the exercise of public power to secure QoG (Rothstein, 2012).

The World Bank emphasises that for governance to be considered “good” there must be an efficient public service, a reliable and independent judiciary, and an accountable system of administration (World Bank, 2013). Furthermore, the World Bank Research Institute provides the two most frequently used definitions of the concept of QoG.<sup>92</sup> The

---

91 In particular, in a democratic society it is not enough for the state to have the power to maintain security and peace, but rather the ability to place the police, security and military forces under democratic control.

92 The World Bank suggests four elements as conditions for the existence of good governance (World Bank, 1992):

- The need for effective financial and human resource public management;
- Accountability in public services (this could be achieved through an effective mechanism for accounting, auditing and decentralisation, and monitoring public officials);

first is how “political power is exercised to manage a nation’s affairs”. The second, broader definition emphasises the “use of power in the management of a country’s economic and social resources for development”.<sup>93</sup>

In this study, the two meanings provided by the World Bank can be read as referring to the institutions by which power in a state is exercised. This includes (1) the process used to elect (or select), monitor and replace public officials; (2) the capacity of the government to effectively formulate and implement good policies; (3) accountability and transparency in government institutions; and (4) respect for individuals’ rights and freedoms (Chase and Anjum, 2008). This study uses these indicators as a basis for distinguishing good governance from bad.

Some economists are more specific and view the concept only for its economic value, referring to good governance as “good-for-economic-development” (La Porta et al. 1999, p.223). The defect with this definition is that it ignores many significant non-economic outcomes of QoG, such as human well-being and social values. Further, similar to the other functionalist definitions, this one cannot determine the level of QoG without measuring the effects of QoG on economic growth, as the form of institutional arrangements that lead to progress in one state can be very different from that in others. In addition, this fact makes it difficult to introduce a universal concept of QoG that is capable of being generalised. For these reasons, this study does not fully consider this definition.

Another insufficient definition of QoG is provided by Transparency International (TI), which relies on a single measure to determine QoG: the perception of corruption in a

- 
- An effective legal framework, independent judiciary and strong law-enforcement mechanisms; and
  - Free access to public information and transparency and good strategy for fighting corruption.

93 The World Bank’s definitions are criticised for being very broad. They have also been criticised because:

they do not distinguish between matters relate to access of power and those concern exercise of power; they include both policy content (“sound policies”) and procedures (“rule of law”) as well as individuals’ evaluations (“respect”); they contain both the institutions for access to political power and those that exercise and implement laws and policies (Kaufmann et al., 1999).

country. TI issues an annual report ranking countries according to the perception of corruption based on the number of reports in each country.

This study also gives consideration to the measures provided by Halfani, McCarney and Rodriguez (1994), who defined the concept of governance as more compatible with democratic principles by referring to governance as

a system of government concentrating on effective and accountable institutions, democratic principles and electoral process, representation and responsible structures of government, in order to ensure an open and legitimate relationship between the civil society and the state. (Halfani, McCarney and Rodriguez, 1994, p.4)

They suggest that there is a significant relationship between the state and civil society. They argue that credibility and legitimisation of government can be obtained through accountability, transparency, responsiveness and real public participation in decision-making. The main elements of good governance suggested by Halfani and his colleagues would be very significant to this study because they provide for the most important concepts that link democracy to QoG, such as: the promotion of democracy and open pluralistic societies; government transparency and right of access to information; accountability and effective government institutions; protection of human rights; upholding the rule of law; right of access to a fair and independent judicial system; free and independent media; combating corruption; and non-political military forces that work in the interest of citizens.

As explained above, the definitions are either very broad or they have an economic bias and deal only with corruption. This paper therefore suggests that, in defining the concept of QoG, three points must be kept in mind. First, the definition should be based on what should be regarded as “good” in this context. Second, consideration must be given to the outcome rather than the procedures and routines of the administrative system. Third, although different societies may require different bureaucracies for achieving QoG, the definition should have standard measures that can be applied on a global scale. For example, although countries such as the USA, Switzerland, Sweden and Finland are very different in their specific institutional formations of democracy and have very different

electoral, political and local government systems, they are all democratic and they all possess a good QoG (Rothstein, 2012).

This study prefers a definition introduced by Rothstein and Teorell (2008), who used the term “quality of government” and linked it to the concepts of impartiality and accountability, where the public institutions implementing policies do take the citizen and the interests of poor people into consideration. Thus, it could be said that governance should be defined as the process operated to achieve human well-being and the noble ends of the state.

This study also argues that establishing good governance in post-conflict societies depends on several factors. First, it is essential that the reasons for and background to the conflict need to be thoroughly examined since QoG is decisively influenced by the way in which the conflict was settled. Second, the opportunities for improving QoG are increased if the parties to the conflict are able to enter into a peaceful agreement between themselves without external pressure, but with international support. And third, the culture of violence must be replaced with a democratic political culture (Debiel and Terlinden, 2005, pp.3–17). After achieving these elements for promoting good governance, the post-conflict state should consider implementing the fundamental principles of democracy (the maximalist approach), in particular: accountability, the rule of law, human rights and impartiality in the exercise of public power. In this context, it should be noted that bad governance may not necessarily mean the absence of democracy (Ogundiya, 2010). By evolving in corruption and lack of accountability and transparency, bad governance provides good opportunities for elites and corrupt politicians to divert for themselves a significant portion of public resources at the expense of the masses (Obadan, 1998).

### ***What makes governance good or bad?***

Before outlining what makes governance good, it is important to explain why the World Bank and many writers consider “good” as meaning economic growth and human well-being (Holmberg, Rothstein and Nasiritousi, 2008; Rothstein and Teorell, 2008; Acemoglu, Johnson and Robinson, 2004). Good governance is a significant requirement for a society to protect human dignity and property rights. The rapidly growing literature

on “good governance” has, however, not only given attention to economic development; it has been argued that QoG affects other non-economic issues, such as subjective happiness (Frey and Stutzer, 2002), reducing the incidence of war and internal conflict,<sup>94</sup> and stability of democracy in society (Öberg and Melander, 2005).

Governance means how power is exercised by the state in the administration and distribution of economic resources throughout society. The manner in which the government distributes resources and administers the affairs of its citizens makes governance bad or good. Thus, when elites utilise the distribution of public resources to achieve personal gain, the essential aim of governance is defeated. Governance also has political, administrative, social and economic dimensions. Thus, governance is applicable to all the institutions of state, such as the executive (health services, education system, etc.), legislature, judiciary, media, corporate sector and non-governmental organisations (World Bank Institute, 2003).

This paper agrees that governance is “good” if it can achieve the desired aims of the state, such as justice, protection of human rights, security, political stability, allowing effective citizen participation in the decision-making process, application of the rule of law, providing public services and improving living standards. QoG is thus determined by the impact of this exercise of power on the quality of life enjoyed by citizens. By contrast, governance is termed “bad” when it fails to achieve the well-being of the people (Holmberg, Rothstein and Nasiritousi, 2008).

Different organisations and scholars have different criteria for measuring QoG. Some scholars rank countries according to their level of impartiality, corruption, the rule of law, economic growth and government effectiveness (Holmberg, Rothstein and Nasiritousi, 2008), the level of education, a good healthcare system (Mauro, 1998) and public security, human well-being and subjective happiness (Frey and Stutzer, 2002).

---

94 The association between democracy and peace is based on the ideas in Kant’s 1795 essay “Perpetual Peace”, which suggested that established democracies could lead to peaceful relations between states because a democratic state controlled by its citizens is highly unlikely to enter into conflict and war that would subject the citizens to bloodshed and violence.

The UN Development Programme determined the following as the main criteria for good governance:

- Equality of participation for all citizens in issues that concern them;
- Responsiveness towards all organisations and individuals in a timely manner;
- Responsibility towards stakeholders for activities and agreements made through support organisations;
- Transparency in the governance decision-making system, and viability and availability of public information;
- Implementation of the rule of law;
- Sustaining and improving economic and social development; and
- Guaranteeing the rights and liberties of all individuals.

To measure the level of QoG in different countries, each international organisation formulates its own criteria. However, it has been argued that international organisations' surveys must be viewed with caution because markers such as the World Bank's Worldwide Governance Indicators are standardised each year (to a world mean of '0'), and adding or removing countries and/or questions from year to year can produce changes to a country's score regardless of whether it in fact improved or worsened. In addition, the measurement criteria used by these international organisations are based on the purpose of their surveys, which are targeted at helping international investors who are looking to make a profit. Thus, a country that has less red tape and provides a friendly environment for business might be recognised by such organisations as less corrupt, while in fact that country does not necessarily provide good governance for its people (Charron and Lapuente, 2010).

Among the symptoms of poor governance are: a failure to provide an effective legal system to achieve equality, impartiality and to maintain and promote the rule of law; ignoring the practice of transparency in the decision-making process and running the state; excessive administration costs; poor public services; and failure to implement policies and regulations (Samuels, 2006). The World Bank (1992) says that the features of bad governance include: a failure to distinguish between public and private interests (this leads to use of public resources for private benefit); failure to adopt an appropriate

framework for law and government administration in a way that leads to achieving the rule of law, economic development and respect for the rights and liberties of citizens; government behaviour that causes market monopolies and rent-seeking; and ignorance in implementing laws and regulations, resulting in financial corruption and lack of citizen participation in the decision-making process.

### ***Measures of quality of governance***

As explained above, various international organisations and scholars generally agree upon some criteria to measure QoG. However, one cannot rely on a single concept such as “effectiveness of administration” or “rule of law”. Multiple measurements can reduce the margin for error of any single indicator. In this study, the five most important concepts of QoG have been taken into account to measure QoG in the Kurdistan Region because these are considered vital by many scholars and international organisations. Furthermore, the majority of interviewees confirmed the following five criteria to be important in the context of governance in Kurdistan:

1. Accountability;
2. Transparency;
3. Protection of fundamental human rights;
4. Upholding the rule of law;
5. Providing public services.

#### ***1. Accountability and its relationship with democracy and QoG***

Good governance requires and expects public servants to behave with honesty and ethical integrity, as greed and self-interest may overcome the fundamental duty of acting honestly. Accountability is a force outside one’s control, and can ensure that individuals act ethically and with integrity. Hence, it obliges public-sector employees to act in accordance with the law and regulations for fear of the consequences (forces beyond their control) if he/she behaves differently (Aucoin and Heintzmann, 1999).

The concept of accountability is about the relationship between two or more parties in which one recognises an obligation to give an account of his actions to the other(s).

Accountability indicates a relationship between those who possess a right and the agents responsible for achieving that right (Wolf (2000) cited in Risse, 2004). Accountability can be achieved through internal and external elements. The internal elements are situated within the institutions of government itself and the external elements are situated outside. However, accountability is to some extent a system of administration in the form of checks and balances. Effective accountability requires political will, with opposition parties, the media, civil society and the judiciary getting involved (Risse, 2004).

Accountability is a fundamental feature of good governance. It was traditionally defined as faithfulness to and compliance with regulations, the law and existing procedures, and accordingly public servants were accountable to rules and procedures rather than to the public (Aucoin and Heintzmann, 1999). However, in a democratic system, public accountability is an essential requirement of good governance. In such a system, government officials should be held accountable to their superiors, and elected officials such as MPs and ministers should be held accountable to the citizens for various types of activity. Wolf (2000, cited in Risse, 2004) considered five elements of accountability that exist implicitly in the everyday affairs of public administration:

- Legal: compliance with or adherence to the law and regulations (rule of law);
- Financial: use of public resources;
- Policy and activity to meet targets and expectations;
- Democratic: accountability to legislatures and citizens by way of informing and consulting them about their decisions and performance;
- Ethical: acting in accordance with codes of ethics or general administrative behaviour.

Aucoin and Heintzmann (1999) point out that accountability has three main elements: (1) controlling abuse of public services for private gain by officials (corruption); (2) ensuring that public resources are used in accordance with policies and in the public interest; and (3) improving the efficiency and effectiveness of public services for the purpose of control and performance management. The strength of accountability in the



state system can be determined by its efficiencies and effectiveness, which in turn may be measured by the extent and quality of the accountability in the state institutions.

According to Charron, Dahlström and Lapuente (2010, p.17), poor-performing accountability mechanisms in the system of governance may be related to two factors. The first is that two different styles of state infrastructure would fit into the classical division of administration established by the Weberian institutional approach: patronage-based and merit-based. Second, these state infrastructures were created at a particular point in the formation of a state, which creates dependent institutions that are difficult to change. For instance, following revolutions, when the armed forces and a group of political leaders form the institutions of government, they can create the state in a way that gives militants more control over state infrastructure and eventually can abuse their power and their positions for their private and political advantage. This becomes an insurmountable obstacle for subsequent rulers aiming to overturn the system and make it “directly accountable”. The result would be less judicial independence, stricter procedures, and a more controlled economy, which in turn creates weaker QoG and more corruption (La Porta et al., 1999).

One of the important factors for achieving accountability is the improvement of ethical behaviour among public-sector officials in institutional governance. If the lines between proper and corrupt/unethical behaviour are not clearly drawn, it will be easy for officials to err. If corruption is the misuse of public office for private gain, then every corrupt behaviour in the public sector is unethical (Madhav, 2006). Empirical researchers therefore concluded that the issue of corruption in the public sector could be addressed from the perspective of governance and ethics; and they agreed that improving ethics in the public sector would reduce the level of corruption (Rose-Ackerman, 2001; Paldam, 2002). However, a written code of ethics that includes tough penalties for dishonest behaviour and abuse of power is not enough if they are not enforced properly and equally on all officials (Madhav, 2006).

## *2. Transparency and its relationship with democracy and QoG*

The major focus on the concept of transparency began nearly 25 years ago in the area of international aid and politics. Organisations such as the World Bank, Transparency

International and the International Monetary Fund (IMF), which provided financial help to countries such as the Philippines, Thailand and Argentina, wanted to be certain that the money was being properly used and managed. Furthermore, from the political perspective, these organisations wanted to encourage clean and fair democratic elections, so that security and the political system would be more stable.

One of the defects in the literature relates to the definition of transparency. This is sometimes vaguely defined as the level of access to information, without narrowing down what information and what access. It is perhaps because of the concept's wide applicability that an agreed definition is lacking (Relly and Sabharwal, 2009).

Transparency describes a situation in which there is free access by citizens to public information – “openness to public gaze”. Some writers go further and describe modern democracy as the “democratisation” of information (Kolstad and Wiig, 2011). This is about the right to access information, and more extensive and deeper penetration by free and independent media into public affairs. It has forced the public administration to be more transparent and accountable, and, for the same reason, has also made these actions more accountable to the public. In addition, transparency ensures that the decision-maker's actions are exposed to the public to see whether their decisions and enforcement are made in a manner consistent with rules and regulations and clearly articulates the rationale behind their decisions, and that the evidence on which they are based is publicly accessible.

In other words, transparency is the extent to which an organisation reveals relevant information about decision-making processes, procedures, activities and performance so as to allow both the other branches of government and the public to monitor and examine whether agency decisions are truly made on the appropriate grounds. In this way, transparency will not only help to achieve human well-being and democratic goals, but can also become an important strategy for the voices of the most vulnerable people in society to be heard, help produce better, more informed policy, and improve the overall quality of governance (Curtin and Meijer, 2006). Here one should not ignore the significant impact of modern technology in strengthening the concept of transparency. This new model of transparency is often referred to as “open government” or e-government; the latter, in particular, suggests not only transparency but also active

citizens' participation in the policy-making process as the Internet makes information about the operation of government bodies more easily accessible and available.

Empirical research shows that transparency can lead to good governance both by encouraging good public decision-making and by deterring misconduct by officials and politicians. Transparency is therefore regarded as a fundamental feature of accountable governance, and can support improved allocation of public resources, quality of policies and efficiency, and economic progress in general (Coglianese, 2009).

The philosophy of the principle of transparency is rooted in providing the public with a link to decision-makers. The aim is to allow decisions that are legitimate and achieve the best outcomes for people. If the aim of the public service is to fulfil its purpose of ensuring the well-being of the people, the people must be able to have knowledge about what and how this authority is exercised as an ultimate control over it. As a principle, transparency implies that civil servants, as agents of the public, have a duty to act openly, predictably and understandably. Hence, transparency is an important democratic value that can help to create trust between the citizen and government by providing citizens with sufficient information about the government's actions. This information can be used to evaluate and determine, first, why the government reached particular decisions; second, whether the interests of citizens are being served fairly to the expected level; and, third, whether the policies and procedures taken were lawful and in accordance with the given mandate (Coglianese, 2009).

Although some researchers consider transparency a good way of achieving quality decisions and a better quality of government, they emphasise that transparency may not automatically provide the expected benefits. Researchers agree that transparency has been linked with implementing certain other concepts, such as an independent and effective judiciary, freedom of the media, and accountability. Without this, transparency cannot function effectively and some scholars even argue that, without these other concepts, greater transparency may, rather, increase the level of corruption in a country by making it clearer who can be bribed to attain something (Lindstedt and Naurin, 2009). According to Winkler (2000), in an environment of transparency citizens, public prosecutors and the media can easily obtain the information required to detect misuse of power in public office or of public funds, and the judiciary can convict the abuser. Thus,

the lack of transparency has been cited by researchers as one of the main causes of corruption, because a lack of transparency creates opportunities for rent-seekers to abuse their public office for private gain (Rose-Ackerman, 2010b). In societies such as New Zealand, Sweden, Finland and Denmark, transparency is considered the main factor in explaining the high level of QoG and why corruption seems to be very rare in these countries (Transparency International's Corruption Perceptions Indices). Finland, for example, has held the top position in Transparency International's annual CPI since 2000. Researchers suggest that this is because Finland has only a very limited amount of data classified as confidential, to which there is no public access (Brunetti and Weder, 2003, pp.1801–24). Hence, researchers consider transparency as a weapon against corruption (Rose-Ackerman, 2010b; Gerring and Thacker, 2004), and an important condition for good governance (OECD, 2001).

### *3. Protection of fundamental human rights*

Protection of human rights is an indication of good government and is considered a significant democratic value, in particular in those societies where democracy is seen as more than elections, rather as a way of life (maximalist democracy). As already noted, Rotberg (2004, pp.2–7) extended the concept by inventing a scale in which states are classified into “failed”, “strong”, “collapsed” and “weak”. He set up elements that are essential to discover the difference between strong and weak states. One of these is the state's ability to protect citizens from violations of human rights. When the interviewees were asked about human rights and civil liberties in Kurdistan, most believed that there was a strong association between the protection of human rights and QoG. For example, a KIU MP (interviewee 28) stated

I think that, as their basic rights, people in a democratic society have the right of equal opportunities, to participate in decisions concerning them and to get public-sector jobs, and they should be equal before the law. Thus, the principle of equal opportunity and the rule of law can improve QOG.

The majority of interviewees, in particular those from the opposition parties, were not satisfied with the condition of human rights in the Kurdistan Region. For example, one GM MP (interviewee 9) pointed out that “according to the human rights organisation, Kurdistan has a bad reputation in relation to human rights and freedoms; this proves

what people like me have claimed before, that there are various breaches of human rights in Kurdistan”.

The majority of interviewees were concerned about breaches of human rights by the main ruling parties. Unlawful and politically motivated arrests and the violation of human rights are carried out by the official security service (Asayish) and intelligence agencies (Parastin, belonging to the KDP, and Dezgay Zanyari, belonging to the PUK). An Amnesty International report explained that

[Despite]... encouraging progress in the field of human rights [by the KRG] ... Thousands of people have been detained arbitrarily and held without charge or trial, many for years. Some have been tortured and otherwise ill-treated; some have been victims of enforced disappearance. Most were detained by the Asayish, the security agency, without an arrest warrant and were then denied access to a lawyer or any opportunity to challenge their detention before a court. Among those targeted have been political opponents of the Kurdish authorities ... (Amnesty International, 2009, p.54)<sup>95</sup>

In February 2014, Soran Omar, head of the parliamentary committee on human rights, published letters from three inmates of Mahata Prison in Erbil who had witnessed sexual assault by the prison staff;<sup>96</sup> the three claimed that they themselves would have faced serious sexual threats if they did not admit the fabricated charges against them. Omar added that the prison staff sexually assaulted wives of the prisoners in front of them, in order to push them to admit the charges. The chairman of the parliamentary committee confirmed the truth of the allegations.<sup>97</sup> In an interview with Dastor, Omar also said that

---

95 In addition, a UK Home Office Government Country of Origin Information Report (on KRG Area of Iraq) September 2009 states that “The AI report further stated that although the KRG had released over 3,000 detainees in response to AI’s August 2008 memorandum on human rights concerns, hundreds of prisoners were still being held without charge or trial. ‘The head of the Asayish Gishti in Erbil informed Amnesty International at the end of May 2008 that there were then 670 political detainees being held without charge or trial.’ ...”

96 “Hope and fear, Human Rights in the Kurdistan Region of Iraq”, Amnesty International, April 2009. Available at <http://www.refworld.org/docid/49e6e8922.html> [Accessed on 14th January, 2016]

97 Omar, S. “In Asaysh Prison, put in saucepan and been boiled in hot water”. Lvin, 18 July 2014 (in Kurdish) Available at: <http://www.lvinpress.com/dreja.aspx?Jmare=7542&Jor=1> [Accessed on 13th January, 2016]; see also “Sexual abuse of prisoners in Iraqi Kurdistan KRG prisons”. Ekurd Daily, 9



human rights and civil liberties, generally speaking, the problem is not with the constitution or with the written law, but with their implementation. According to Sinclair and Kajjo (2011), the constitution and the Press Law of 2007 guarantee basic freedoms for citizens. However, in practice, these principles have not been implemented effectively. Implementation of human rights, however varied, depends on whether the government is willing to protect human rights and society is ready to respect human rights principles.

Some opposition interviewees argued that the KRG was not willing to protect human rights and civil liberties because it was not in the interest of the ruling parties to do so. For example, a KIU politician (interviewee 8) stated that

The ruling parties think that if the media became free and independent, freedom of speech was 100% guaranteed and human rights were respected, they would not be able to deceive the public because when people became aware of their misuse of power and their misbehaviour, they would not re-elect them.

A judge of the Court of Appeal (interviewee 19) was of the opinion that human rights violations in Kurdistan were connected to the lack of democracy. He stated:

You ask “why does this happen?”. I can tell you; the simple answer is that the authority in Kurdistan is not democratic. The authorities only think about remaining in power by any means; threatening people, killing people or detaining people.

However, a PUK MP (interviewee 23) argued that abuse of human rights was related to the culture of conflict and violence in the region: “There is a culture of violence and fighting in our region; it is very difficult to change, because it has become part of our culture”. Another KDP MP (interviewee 34) also believed that, in the last ten years, the KRG had taken significant steps in relation to human rights and individual liberties; however, he argued that “we are new to such terms [human rights], because we imported them from the West and our society has its own culture and its own values, so you cannot fully implement these terms quickly”.

---

authorities.” For details see: <http://www.al-monitor.com/pulse/originals/2013/01/iraqi-kurdistan-constitution.html#ixzz3QAUgIIlp>

A UK Home Office Country of Origin Information Report (2009), notes that

Khanim Latif of the NGO Asuda, which campaigns to end violence against women, stated that problems with the current system of justice in the KR include a lack of professional expertise amongst practitioners and a complex and inefficient bureaucracy. The KRG has acknowledged that the system is not perfect and does appear serious in its commitment to bring about improvements.

A KDP MP (interviewee 32) believed that sometimes people did not make complaints to the court of human rights about abuses by the authorities because they had no confidence in the court to hold a fair trial, free from political and government interference, so decided to remain silent.

From the foregoing discussion it can be seen that human rights violations in the Kurdistan Region are due to several factors including the political agenda, lack of experience of democracy, a culture of violence, ineffective institutions for protection of human rights due to political influence, peoples' lack of trust in the legal system, and lack of professionalism and skills in the courts, police and security services.

#### *4. Upholding the rule of law*

The drafters of the 2005 Iraqi constitution considered the significance of the principle of the rule of law in forming a new democratic regime in Iraq. For this reason, they paid particular attention to the principle in the new constitution. Although Kurdish politicians always claim adherence to the rule of law, in practice they are not keen to implement the principle, and breach this rule where it goes against their interests. This is discussed in detail in Chapter 4.

#### *5. Providing public services*

This thesis examines whether the Kurdistan state has fulfilled its duty in relation to the first function: providing basic needs such as water, electricity, health and security.

#### Drinking water



Thanks to great improvements in recent decades, the water shortfall rate in urban areas was reduced to 6.9%, although the rate in rural regions was much higher, at 38.3% (KRG Ministry of Planning, 2011). “Due to the large amount of water wastage in the region, the KRG has dedicated a part of its master plan for 2014 to install water consumption meters in each Kurdish household”, stated Sarbast Osman, the deputy chairman of the Sulaimaniyah Water Administration, who is responsible for the city’s annual master plan and writing an annual report for the KRG.

However, the problem of drinking water still remains unresolved; daily water production in 2011 was 924,600 m<sup>3</sup>, while daily demand comes to about 1,250,000m<sup>3</sup>, leaving a shortfall of 325,400 m<sup>3</sup> per day. Interviewees 16, 21 and 40 believed this was largely related to the bad governance practised by the KRG. However, according to the government, a part of the problem is the high water consumption of citizens in Kurdistan. According to *The Kurdistan Tribune* newspaper, each person in Kurdistan uses 800 litres of water per day, a very high rate compared to Sweden, where a person uses only 120 litres per day (Haidar, 2013). In this context, some interviewees again blamed the government for the absence of policies and regulations to reduce water consumption through methods such as installation of water meters, raising the price of water, and educating people about water use.

### Electricity

Since 1992, the Kurdish region has continuously suffered frequent shortages of electricity. While electricity distribution has been improving since 2010, major shortages are still a regular occurrence (interviewees 3, 5, 23 and 37). Frequent power cuts have affected the daily lives of people and businesses, and public services such as healthcare. This situation has increased residents’ concerns, and they frequently complain and protest to the government.

In an interview with The Report Net<sup>100</sup>, Yasin Mawati, a former Minister of Electricity, talked about improvements in the distribution of electricity, while confirming how poor this utility had been until 2010. He said that

---

100 Website no longer exists (accessed in 2012).

In 2008 the KRG was providing on average only of 90 minutes of electricity per day. In 2009, we managed to increase this figure to 8 hours 8 minutes, and by 2010 it was 11 hours 15 minutes. This kept increasing until last winter, when we reached more than 22 hours a day of electricity provided across Kurdistan.

According to the Ministry of Electricity website, in 2013 the government was able to provide electricity for 18–21 hours per day. However, in August 2014, only 18–19 hours per day were provided due to the war with ISIS, which led to an increasing number (nearly two million) of refugees, who lacked fuel for generators and increased the demand for electricity. Electricity supply is still a problem and the KRG is still not able to provide 24-hour electricity.

### Healthcare

Some interviewees considered the lack of a proper health service as a sign of bad governance in the Kurdistan Region (interviewees 13, 17, 21 and 35). A GM politician (interviewee 17) gave the example of 50 patients who lost their sight in February 2013 as a result of the poor quality of medication and incorrect medications prescribed by doctors in hospitals.

Dr Rekawt Rashid, the KRG health minister, told Rudaw News that “From 1991 to 2003, there was not enough budget for us to build hospitals and facilities; the budget we had just covered our employees’ salaries. From 2003 onwards we have had a budget from the ministry of health in Baghdad, but that isn’t enough”. He added that the KRG only allocates 4.8% of the state budget to health services, which only covers 40% of health needs. In 2010, the KRG allocated only 5.2% of the budget to healthcare, which is low by international standards (Pironti, 2014).<sup>101</sup> However, Dr Rashid stated that, despite this shortage in funding, Kurdistan’s healthcare has seen significant improvements in the last few years (Anthony, Moore, Hilborne and Mulcahy, 2014). Some of the interviewees referred to the improvement in the health service, although they believed that the service was still not satisfactory (interviewees 7, 13 and 23).

---

<sup>101</sup> For example, Jordan spends 8.9% of GDP on healthcare and most European countries are in the 8–10% range (WHO, 2010).

According to the United Nations, good healthcare depends on six criteria: it should be safe, effective, based on scientific knowledge, provided within a reasonable time, accessible around all the regions, and provided with respect and on an equal basis without discrimination (UN General Assembly, 2006).

The health service in Kurdistan is partially effective, but it lacks the sophisticated data, management skills and modern IT systems required in every successful national healthcare system. These should be provided by the government to enable real reform to be undertaken. One of the essential requirements for continuous care and better health outcomes is the existence of a coherent system to provide patients with regular contact with the healthcare system, such as a specialist or a relevant health team (Anthony, Moore, Hilborne and Mulcahy, 2014).

Figures reported by the Kurdistan Ministry of Health to the World Health Organization (WHO) also compare the number of dentists and pharmacists in the Kurdistan Region with rates in other countries. In 2013, there were 1.3 dentists per 10,000 inhabitants, whereas the international standard is 3 per 10,000. There were 0.58 pharmacists per 10,000 inhabitants, compared to the international standard of 4 per 10,000 (WHO, 2010). These figures clearly indicate that the Kurdistan Region and its constituent provinces have far fewer dentists and pharmacists than most other countries in the WHO Eastern Mediterranean region, and the world as a whole. Fortunately, however, in relation to other health workers such as doctors, nurses and midwives, Kurdistan exceeds the minimum threshold level, with approximately 2.8 per 1,000 inhabitants. However, the report identified a large gap between Kurdistan and other countries in terms of medical education, training, experience, licensing and management skills. This situation leads to an inadequate system for providing effective healthcare. As a result, interviewees argued that the government must develop a new programme for the improvement of education, training and recruitment in the health sector. The region also lacks a clear focus on patient-centred care, patient safety, and quality of care (Anthony, Moore, Hilborne and Mulcahy, 2014).

#### Other public services

With regard to mail, according to *Kurdish Globe*, there has never been an effective and reliable postal service in Kurdistan, despite several attempts by the KRG to develop one.

This is due to the lack of accurate postal addresses and a shortage of post offices, which makes people feel insecure about using the postal system. The system is only used for business mail and official government mail (KRG Ministry of Planning, n.d.).

Research shows that 23% of people were satisfied with public transportation in Kurdistan in 2012, compared to 54% in 2011. Satisfaction with housing also declined, to 30% in 2012 from 53% the previous year. Satisfaction with the education system decreased slightly to 61% in 2012 from 64% in 2011, although this was still higher than the level in 2010, which was 55% (Loschky, 2012).<sup>102</sup> The ranking of universities in Kurdistan varies considerably; the best is Erbil Medical University, with a global rank of 102,133, while Bayan University is the lowest, ranking 25,176,144 in the world (inkurdish.com, n.d.).

### ***Democracy and QoG***

Kurdistan has a democratic constitution, but this thesis argues that the KRG has not been able to establish a good governance system despite claiming to practise democracy. For this reason, this study should consider first whether the process of democratisation can support QoG and reduce the level of corruption.

Democracy is one of the predominant forms of government in the world today. As explained earlier, there is a significant interrelationship between democracy and QoG. In particular, democracy in its broad sense embraces some significant principles that can improve QoG (Rothstein and Teorell, 2008). Amundsen (1999) examined the relationship between democracy and corruption, and found that there is a negative relationship between them, although not very strong. He argues that this negative correlation is not significant at the beginning of the democratisation process, but that the level of corruption would substantially reduce only with democratic consolidation in

---

<sup>102</sup> The survey was conducted through face-to-face interviews with 7,001 people in Iraq aged 15 and older, between 2009 and 2012. In the Kurdish region, 1,066 people were interviewed (366 in 2009, 280 in 2010, 280 in 2011 and 140 in 2012), with a maximum margin of sampling error ranging from  $\pm 6.6$  to  $\pm 9.3$  percentage points. Outside of the Kurdish region, 5,934 interviews were conducted (1,635 in 2009, 1,720 in 2010, 1,720 in 2011 and 860 in 2012), with a maximum margin of sampling error ranging from  $\pm 2.7$  to  $\pm 4.0$  percentage points.

terms of “deep democracy” (Amundsen, 1999). Perhaps this correlation is only statistical (reliance on the reports of the Freedom House Country Rankings for levels of democracy and reports of the Transparency International’s Corruption Perceptions Index), and not necessarily a causal relationship between the two. In another study, Paldam (1999, p.18) suggests that the correlation between democracy and corruption will decrease as the level of democracy increases, but that this inverse relationship changes according to variations in the levels of democracy (or, rather, the different stages of political transition). He argues that the level of democracy has no direct effect on the level of corruption; the linkages between corruption and democracy were therefore not very obvious. However, there are some other studies exploring a correlation between a good administrative system and democracy. They concluded that, in democratic countries where there is freedom of speech and strong civil societies, the level of corruption is low compared to countries where there is no free press or strong civil society (e.g. Chowdhury, 2004; Treisman, 2000). However, a close look at existing studies reveals that the uncertainty about the effect of democracy on corruption may result from the way in which the concept of democracy is viewed (maximalist or minimalist approach).

Establishing democracy has often been considered by some scholars as an effective antidote to the various failings of government such as corruption, maladministration, lack of public services, poverty, conflict and violence. This is because they suggest that democracy is closely connected to the principle of accountability, which helps to combat the abuse of power by public officials that leads to these types of shortcomings. A PUK politician (interviewee 3) stated: “democratic principles, such as the right of access to and availability of information, and freedom of expression, can put pressure on government to become more accountable to parliament and to the public. This is, in reality, happening everywhere in democratic countries.” Democracy and QoG are thus systemically interrelated. However, it must be noted that elected-representative democracy does not automatically translate into QoG. From a normative point of view, QoG requires both practising democratic values in relation to access to power, and impartiality and accountability in the exercise of this power (Rothstein and Teorell, 2008).

It has been argued that, although democracy is probably a necessary requirement for QoG, a limited approach to democracy is unlikely to be sufficient. The reasons can be

both theoretical and empirical. When a majority comes to power, there is no guarantee that it will respect fundamental democratic principles. For example, in an ethnically mixed society, when the ethnic majority wins the election, a breach of the impartiality principle and the enactment of policies may discriminate against the minority, even though the election is legitimate. In this context, a judge of the High Criminal Court (interviewee 7) was of the opinion that the constitution and law in Kurdistan provides the parliament with sufficient power to monitor the government. This is not the case in practice because of political influence over the parliament, the majority of MPs being members of the ruling parties who are not willing to criticise their own party colleagues. A GM politician (interviewee 17) described the existing democracy in Kurdistan as “a model of dictatorship by the majority; the majority voice in parliament is being used to prevent accountability”. A KIU MP (interviewee 13) explained that this majority “dictatorship” in parliament reduced the role of other parties as the opposition, stating that

you know we could not do more because we are the minority in parliament and the final word is for those members from the ruling party ... However, we managed to make the public aware of what was going on inside parliament and how the parliament (with the majority’s votes) legalises and approves the illegal activities of the government.

She then gave an example of how the majority in a democracy can abuse the system for its own political interest; she said that the parliamentary majority (which is of course from the ruling parties) added a section in the 2011 law of protest making it compulsory to obtain permission from the government before holding any protest or demonstration, and in practice the authorities misuse that section to prevent any protest of a political nature.

Empirically, the relationship between democracy as a means of obtaining power through election and impartiality in the exercise of public power is vague. Empirical studies show that some newly democratised states exhibit worse abuses of public power than non-democratic ones – for example, Peru under president Alberto Fujimori (1990–2000) (McMillan and Zoido, 2004). Thus, democracy by itself does not guarantee QoG, unless it ensures accountability of public officials and transparency in their actions and policies. For a state to have democratic legitimacy, it needs to provide the basic political rights of

society, such as freedom of expression, free and fair elections and the right to a fair and independent trial, as well as impartial government institutions. A GM MP (interviewee 18) argued that “If we agree that democracy leads to more openness and transparency, freedom of speech and accountability, we should agree that democracy can make improvements in QoG, reducing corruption and improving the public services”. One academic (interviewee 31) goes even further, believing that the implementation of democratic principles such as the rule of law and various freedoms can automatically lead to greater transparency and accountability.

From the above discussion it is clear that there is a relationship between democracy and QoG. In particular, democracy in its broad meaning includes some significant principles that can certainly improve QoG. Although some researchers argue that democracy is not the only requirement for achieving QoG, it may well be a more fundamental one.

Dorn et al. (2007) found that democracy is conducive to happiness. They describe democracy as the best way to manage conflict, reduce violence and war, and provide opportunity for vulnerable groups and citizens to have their voice heard, and the only peaceful means to remove a government that does not respond to the needs of its citizens. These privileges make citizens in democracies more satisfied and feel happier with their lives than citizens living in non- (or less) democratic countries. Empirical research shows that QoG as an accumulation of effectiveness, impartiality, rule of law, low corruption and working for the public interest, makes people happier and more satisfied with their life regardless of the level of economic development of the country (in rich countries as well as poor). Good government institutions make people happier by working to improve social capital, interpersonal trust and economic growth, and by resolving internal conflicts. This joint expectation provides a system that makes life clearer and more predictable and protects citizens from sudden risk (Samanni and Holmberg, 2010). While this correlation between democracy and life satisfaction (and feelings of happiness) is more significant in the richer OECD countries, it also exists in non-OECD countries (Samanni and Holmberg, 2010).

Helliwell and Huang (2008) reached a slightly different conclusion by analysing the effect of QoG on subjective happiness in a sample of 75 countries, generally finding that QoG has a strong positive effect on subjective human well-being. However, when they

separately tested the samples in countries with below and above half the GDP of the United States, they found that QoG is significant only in the samples of poorer countries. This study shows that QoG might increase happiness through economic progress and that economic development has no effect on subjective happiness when economic growth exceeds a certain level.

### *The “input” side of democracy*

On the input side, “access to power”, the most broadly accepted principle is, according to Dahl (1989, pp.31–2), political equality, which requires impartial treatment on the input side of the political system (by giving equal opportunity to all citizens and political parties access to power in free and fair elections). One academic (interviewee 20) argued that “implementing democratic principles can allow competent people to take over the authority and rule the government for the interest of the people”.

In relation to the “input” side, for democracy to be effective in achieving QoG two important factors should be considered.

The first is what O’Donnell calls the “bundle of political rights”, including freedom of expression, impartiality, an open media and an independent judicial system (2001, p.18). This position has been confirmed by a GM politician (interviewee 17), who argued that

Democracy is like a package; you cannot take some and leave some, otherwise you cannot build a democratic society where human rights are respected. Therefore, I can say that if we implement the entire value of democracy, yes we can build a good type of governance that is able to secure improvement in the recruitment process and business as well.

Scholars such as Wang (2007) focus on state capacity and democracy, and outlined how various elements of state capacity positively correlate with the principle of democracy. Using the democracy and governance indices of the Bertelsmann Stiftung’s Transformation Index (BTI) – a global organisation that measures and evaluates transformation processes of state in 129 developing and transition countries – the qualitatively collected data was arranged into lists: the “Status” list includes those variables that can be used to examine the quality of democracy in the state, and the “Management” list includes those variables that assess QoG in the state. Wang found



that the status of democracy can affect a state's management capacity, and found a significant positive correlation between the two (Bertelsmann Stiftung, 2014). He concluded that QoG is, among other things, strongly connected with democratic principles such as popular participation, a free press, transparency, accountability, effectiveness, equality and promotion of the rule of law. He emphasises that democracy can ensure that the people's interests have been given priority and that the voices of the poor are heard in relation to the allocation of resources, and their rights and freedoms.

The second key factor is the concept of free and fair elections. "Free" means that citizens must be allowed to go to the polls without fear of reprisal and "fair" means that all votes must be counted equally (Dahl, 1998, p.95). Although elections must be regulated by the incumbent government, in a democratic society the government should ensure that the elections are free and fair. For this to occur, they must be administered by impartial government institutions and the ruling party must avoid any attempt to dominate the poll in a way that favours itself and prevents the opposition from winning. One academic (interviewee 20) stated that all democratic principles are important and linked, and added that "the core of democracy is free and fair elections; all other principles revolve around this and all are required". Hence, democracy as political equality requires impartial state institutions that guarantee equality in the access to political power.

One PUK MP (interviewee 23) explained the mechanism of how democratic principles can improve QoG. He said:

Democratic principles require the government to promote the freedom of speech, free media and transparency. Where the media are free and independent and able to obtain information free from restriction and able to investigate scandals and corruption, they can reveal the defects in governance and put pressure on the government to fight corruption and to undertake real reform. The media can also make people aware of corruption and people may decide not to vote for the same party in the next elections. This how democracy can make changes.

#### *The "output" side of democracy*

The question of whether QoG equals democracy is more related to the definition that one gives for democracy – whether a broader definition (to include how power is achieved and exercised) or a narrow one (how power alone is achieved). A conclusion by

Rothstein and Teorell (2008) that should be given particular attention is that QoG does not equal democracy. They argue that, although democracy's concerns about political participation are a necessary criterion of QoG, democracy alone is insufficient. They further insist that, if QoG were merely equal to democracy, the significant value of how authority is exercised would be ignored, since the focus would be only on how authority is obtained.

Empirical literature shows that more democratic countries are more prone to have a better QoG than non-democratic ones, even though some democracies are known for having a corrupt administrative system and despite some non-democratic states being known for their QoG. The degree of adherence to the democratic principle and the democratic experience is important. Kolstad and Wiig (2011) make a similar point. They argue that democracy is an effective tool in establishing good-quality government institutions, which results in reduced misuse of power because democracy has the capacity to expose corruption through checks and balances. These checks and balances are in the form of the rule of law, separation of powers, a free press, political parties that are competitive, and free and fair elections.

As mentioned above, many theoretical reasons have been put forward by scholars as to why democracies should produce a better QoG than an authoritarian regime. However, this study does not argue that democracy is the best form of governance system, but that in its minimum approach it is a better form of regime that is capable of improving QoG. In this context, the empirical evidence in favour of the democratic principle is, at best, mixed. For instance, one can observe this confusion by comparing countries such as Jamaica and Singapore, both of which gained independence from the UK in the early 1960s. Economically they were both poor, and they had similar-sized populations. If a professional social-science scholar at that time had predicted the outcome for the two countries 55 years later (taking into account Jamaica's better circumstances at the start), a reasonable guess is that he would have predicted a much brighter future for Jamaica than for Singapore. This is due to the fact that Jamaica then (as now) had good natural resources (bauxite) and a large amount of arable land, and was geographically well located for trade and marketing. Almost all its population spoke English, and there was very little ethnic and religious conflict. By contrast, Singapore had no natural resources and very limited arable land, was not geographically well-placed for a great trade role

and had very ambiguous ethnic and religious divisions. The present situation of the two countries, however, is the exact opposite of what would have been predicted 55 years ago. Singapore's per capita GDP is nearly nine times that of Jamaica, and human well-being is much better protected in Singapore.

However, this example represents a serious attack on those who believe that the best political system to achieve QoG is democracy, as Jamaica has, since independence, been considered a democracy while Singapore has never been through a genuine democratic process (Holmberg and Rothstein, 2010; Rothstein, 2011). In addition, some partially democratic territories such as Hong Kong and Singapore have recorded a significant reduction in the level of corruption and established a good QoG (Rothstein, 2011). Our argument is not, therefore, that places lacking a democratic system but relatively free from corruption – such as Hong Kong and Singapore – should somehow be excused (for being sham democracies) merely on account of their relative absence of corruption.

The reason behind this puzzle, as explained by Neo and Chen (2007), is that Singapore's political leadership was willing to undertake genuine reform and successfully created political conditions that fostered a government to pursue all the reforms required for improving the governance system. In this context, the government of Singapore has established many new institutions and agencies with clear aims and responsibilities, and significantly improved recruitment and promotion systems. The government improved educational institutions, and was rewarded by encouraging them to play a vital role in the process of preparing skilled employees for the government through training and research to improve the government's capacities (Baser and Morgan, 2008).

The fact that some countries that achieved “good governance” are not fully fledged democracies may place doubt on the theory of the relationship between the concept of democracy and QoG. However, excluding these few countries from the sample of analysis may remove this doubt and it can be argued that QoG generally requires both democracy in access to power and accountability and impartiality in the exercise of that power (as explained by the maximalist approach). Democracy in the broadest sense remains a prerequisite for enjoying QoG, but it is far from being the only one (Rothstein, 2011). A country such as Singapore, for example, in improving QoG, is more focused on the “output” side, namely the way in which the power is exercised. As determined by

Jabary (2013) in his research comparing the governance system of the KRG and Singapore, the reason behind the success of Singapore's governance model was that the governance was established on three important capabilities: "thinking ahead, thinking again, and thinking across" (Neo and Chen, 2007). Through "thinking ahead", the government has established a well-designed recruitment system to prepare highly skilled people on the basis of merit for the public sector. Using the idea of "thinking again", the government has regularly reviewed and reconsidered its policies and practice in order to become more effective and achieve better performance. And finally, "thinking across" has provided opportunity to both the political leadership and government officials to learn lessons from other countries' experiences to improve their own governance system.

### **Institutions for implementing the constitutions**

In order to provide an analytical framework for the implementation of constitutions in Kurdistan, this study investigates whether the existing institutions are sufficient for the task. In this context, the paper also analyses whether these institutions satisfy the democratic criteria as adopted by Dahl (1998, pp.83–94).

As explained in Chapter 5, democracy is defined both by institutional forms and processes and by fundamental principles and values. In particular, democracy aims to achieve two crucial purposes: people's control over decision-making processes and the provision of equality among citizens in exercising such control. However, generally, in every democratic country certain institutions are required for achieving these aims (Large and Sisk, 2006, p.4). For example, a democratic state should include multiple governmental and non-governmental institutions (political parties, electoral institutions, anti-corruption agencies, a parliament, human right organisations, auditing organisations, armed forces and a constitutional judiciary) capable of producing various values (liberty, free and fair elections, effective legislation, accountability, human rights and popular security) (Beetham, 1998). Furthermore, despite the requirement for effective democratic institutions, in the longer term some other institutions – such as a developed educational system and free and independent media – are necessary to promote and enhance the culture of democracy in society; without implanting democratic values in society, any struggle for democratisation may not be successful. In particular, in younger democracies – where democratic institutions are lacking, or exist

but are weak, and democracy is not rooted in society – elections can easily be used by political elites to ignore the will of the citizens and control power (Beetham, 1998).

However, because of the influencing factors of cultural, social and political backgrounds on the constitution, democracy is a matter of practice that varies from one country to another. Because of the huge gap between the principles of democracy in written form (as stated in constitutions) and their implementation in practice, the measuring scale of real democracy is the level of implementation of democratic values rather than what can be found in the legal texts (Bassiouni, 1998).

The majority of interviewees, in different ways, agreed with Huntington (1991) that effective democratic institutions are the main element of success of any democratic state. Social mobilisation can follow economic and social development, but it cannot lead to real democracy unless political institutions develop at the same pace. The interviewees also believed that a democratic state should work to establish a set of political and government institutions through which to deliver the democratic values noted above.

For a state to start to become democratic, additional institutions are required to confront the legacies of an authoritarian regime and to produce a culture of democracy in society. In addition, some other institutions demand public participation in the political process, protecting human rights, fighting discrimination and supporting minority groups and women (Office of the UN High Commissioner for Human Rights, 2007).

After the Kurdish uprising in 1991, the KRG established new state institutions such as the parliament and government ministries, and re-established the various government institutions that already existed under the former regime, such as the courts, the police and local government offices. New institutions such as a judicial council and election committees were also formed in line with democratic norms and principles already present in Western democracies (Qadr, 2007, p.125). However, this study argues that, in practice, the Kurdish revolutionary parties failed to overcome the norms of governance and the political system that had been put in place by the former authoritarian regime.

One reason for the domination of political parties over the government in the Kurdistan Region was that, from the first Kurdish government in 1992 until enactment of the new

Iraqi constitution in 2005, the state institutions and system of governance in Kurdistan had no constitutional basis; rather, the state institutions were established by and worked to the instructions of the ruling parties. Many government and political decisions were taken by the powerful ruling parties rather than by the government or parliament. Parliament was used as rubber stamp to legitimise the decisions of these parties (Qadr, 2007, p.231).

By underlining those articles in the 2009 draft Kurdistan constitution and the 2005 Iraqi Constitution that refer to democratic principles and democratic institutions, and its new federal system, this study discusses the presence and quality of state institutions in Kurdistan. The case is examined from two theoretical perspectives. First, for a working democracy to achieve desirable outcomes, the required elements for democracy should be identified, and the background conditions explored. Second, when democracy in Kurdistan is examined, particular consideration should be given to the fact that Kurdistan is a regional state inside a federal county that consists of a multi-ethnic and multi-religious population. For this reason, in analysing state institutions in Kurdistan, it is worth referring to the consociation theory of democracy to identify how the constitution in a federal system can prevent ethnic conflict and civil war from occurring in Kurdistan, and thus promote further democratisation (Lijphart, 2002).

This study focuses on the writings of Dahl, one of the most influential political social scientists of the twentieth century. Dahl's approach has been considered for a number of reasons:

1. Dahl's theory on democratic state institutions is significant in terms of identifying the required democratic political institutions for a transitional state such as Kurdistan/Iraq;
2. He also describes the relevant conditions favouring the formation of democratic institutions, which are essential in any newly democratic state;
3. One of the problems of governance in Kurdistan is the lack of equality among political parties: the ruling parties dominate public resources and governance institutions, and use them in their own interests and those of their members. Thus, there is discrimination against the opposition and people who do not support the government. Dahl's writing about equality (1998, pp.32–44) can

well address this issue, as he believes that people are equally qualified, and so should govern themselves equally as “politically equal”. From this view, he argues that democracy should provide opportunities for equal participation of citizens in the decision-making process, and the constitution of a democratic society must reflect this. To achieve this, he formulated five conditions for democracy: citizen equality in the right to vote, effective popular participation, control over the agenda, full inclusion, and enlightened understanding (Dahl, 1998, pp.83–94);

4. Another shortcoming in governance in the Kurdistan region is the domination of power by the ruling parties. In this context, Dahl gives a valuable explanation of the interrelationships between the holistic concepts of “democracy” and “power”. He illustrates how power should be used in a democratic society: he is of the opinion that power should be distributed equally between citizens and the elite; it should also be dispersed between competitive parties and groups, rather than monopolised by a single party or group; and, finally, citizens should be allowed to participate in the decision-making process (Dahl, 1961, pp.95–7).<sup>103</sup> Dahl argues that political systems should be open, inclusive and competitive, and calls this system “polyarchy” (Dahl, 1971, p.1). This concept is significant as it allows a distinction to be drawn between democracy as an ideal system (direct democracy) and institutional arrangements of democracy that compress this ideal (representative democracy). Accordingly, polyarchy allows a minority to rule as a representative of the majority. In particular, in his book *Democracy and Its Critics*, he confirms the citizen’s rights to limit the power of the elite, and associates polyarchy with political and civil rights such as the rights of participation in free and fair elections, and freedom of expression and association (1989).

---

103 According to Dahl, “A has power over B to the extent that he can get B to do something that B would not otherwise do” (1957). “Dahl gave as an example a professor threatening a student with a failing grade if he did not read a certain book during the holidays. In this case, the amount of power held by the professor can be conceived as the difference between the probability that the student would read the book before receiving the threat and the probability that he would read it after receiving the threat”.

(Encyclopaedia Britannica. Available at: <http://www.britannica.com/biography/Robert-A-Dahl>.

[Accessed 13th January, 2016]

As stated above, Dahl believes that people are all equally qualified, and should therefore govern themselves equally as “politically equal” (1998, pp.32–44). From this perspective he argued that democracy should provide opportunities for the equal participation of citizens in the decision-making process, and the constitution of a democratic society must reflect this. To achieve this, he formulated the following five conditions for democracy:

1. Effective citizen participation. Citizens must have the opportunity to participate in the relevant governance process. For this purpose, citizens should have a right to express themselves without fear of punishment; in particular, citizens should be allowed to freely criticise authority, the government and the prevailing ideology;
2. Voting equality. All adult citizens must be allowed to exercise their right to vote in free and fair elections and to participate in state organisations;
3. Enlightened understanding. All citizens must be given equal opportunities to learn about alternative policies and their likely outcome. To achieve this, citizens should have a right to access alternative sources of information (both governmental and non-governmental), such as free media and telecommunications;
4. Control of the agenda. Citizens should be given control over the government agenda; they should have the right not only to discuss the agenda specified by the government, but also the opportunity to put forward an alternative agenda; and
5. Inclusivity. All adult citizens should have the right of citizenship, as implied by the four points above (Dahl, 1998, pp.83–94).

Dahl argues that if these five elements exist in a state and if they satisfy the essential democratic criteria, it could be said that citizens are politically equal. However, he insisted that the mere existence of the five criteria is not sufficient for a democracy, although they are a minimum requirement for a democratic state (Dahl, 1998, p.85).

What is more important to our study is Dahl’s suggestion that there are some background conditions that are necessary for the democratisation process and its stability and that, where these conditions are only partly met, democracy will be at risk. The five conditions that make a democracy stable are:



1. Control of military forces, security forces and police by elected individuals;
2. Belief in democracy and the creation of a political culture in which the outcome of elections is accepted by all;
3. The state must be free from illegal intervention by a foreign hostile state, but must possess the power to protect and support the process of democracy on its own;
4. A modern open-market economy and society; and
5. Existence of sub-cultural pluralism (Dahl, 1998, pp.147–8).

Thus, in Dahl's view, a country can be considered democratic and can provide "political equality" for citizens if its political system possesses and follows the ten criteria and conditions that, between them, formulate and secure the democratisation process. This study will first examine if these required democratic institutions are available in Kurdistan. However, the availability of these institutions does not in itself indicate the status of democracy in the region. All ten above-mentioned criteria and conditions should therefore be taken carefully into account when examining Kurdistan's democratic institutions. In this way, the current level of democratic institutionalisation in Kurdistan can be analysed.

Most importantly in this study, the new Iraqi and Kurdistan constitutions are also very important in respect of the creation and operation of democratic institutions, because the constitutions define the federal and political institutions for democracy, and provide for introducing necessary laws and regulations to support the appropriate operation of democratic institutions in the region. In this regard, Dahl (1998, p.124) states that "a constitution might help to provide stability for the basic democratic political institutions" (p.124). Hence, the new constitutions have become a very important point of reference for this study because this is the only way of knowing whether or not the state institutions are functioning properly as required by the constitutions.

The 2005 Iraqi constitution clearly refers to the five conditions suggested by Dahl for providing "political equality" in public participation in decision-making. However, this study argues that, since their creation, these institutions have not functioned properly for

reasons that will be explained briefly using the five fundamental conditions that favour democratic institutions as provided by Dahl:

1. Control of military forces, security forces and police by elected individuals.

Military influence on the decision-making process in Kurdistan was one of the significant problems after the liberation process in 1991, where members of the military (Peshmerga) simultaneously acted as politicians. When the first post-liberation government was established, many high-ranking members of the military decided to become involved in party politics and government, and were given high positions such as prime minister, other ministerial roles, head of the police and security forces, and directors-general of government departments. These people often stayed away from the formal political scene, but they influenced political decisions from the outside, and at the same time used public resources and government office for the interests of their political parties and its members (interviewees 10, 27, 31 and 41). However, the military in Kurdistan is similar to the model of democracy proposed by Indonesia's president Sukarno (in office 1945–67), in which the armed forces were viewed as an integral part of the political system rather than, as in Huntington's theory, a neutral agency under the control of the people and outside the political sphere. To avoid military interventions in government, Huntington insisted that, in a democratic society, the military should be independent of political parties, and the military leadership must protect their professionalism when political players try to misuse the armed forces for their own advantage.<sup>104</sup>

---

104 Some scholars suggest that the neutrality of the military and other security forces from the political realm is at best a Western model (Ashkenazy, 1994). In this regard, Kim argues that any post-conflict state that attempts to impose a Western-model of democracy upon its people who are not properly prepared will simply not deliver fundamental success in the political system. But importing a Western-model of liberal democracy may sometimes give way to an authoritarian regime. For example, in 1960 the Syngman Rhee regime in South Korea was overthrown through a popular uprising, but this change created political instability that paved the way for the military to step in to re-establish control under President Park Chung-hee for nearly 18 years until he was assassinated.

However, according to the interviewees in this study and other documentary evidence, the parliament other elected bodies and the executive do not have full control over the military, the police and the security forces. Rather – according to most interviewees – these forces are divided into two and each part takes instruction and direction from the more powerful party in the respective area (the PUK in Dohuk and Erbil and the KDP in Sulaimaniyah). This problem was originally created due to the fact that these forces already existed as Peshmerga forces belonging to either PUK or KDP and were fully under the control and direction of their political leaders. This was the situation until 2005, when the KRG decided to regulate the military forces under the umbrella of a single Ministry of Defence. However, the majority of interviewees argued that even now the vast majority of military, police and security personnel are recruited from among PUK and KDP members. These forces are therefore more loyal to the political parties, and cannot function independently. Furthermore, conflicts between the political parties between 1992 and 1996 and the current situation of war and violence do not allow these institutions to function properly;<sup>105</sup>

2. Democratic beliefs and political culture. In a state ruled by dictatorships and tyrants for over 70 years, it is difficult for people and political parties to possess democratic beliefs or to adopt a culture of democracy. In particular, the long-lasting Saddam regime and its policy of oppression and persecution have instead created an authoritarian culture in various aspects of life in the country (Biddle, Friedman and Shapiro, 2012);

---

<sup>105</sup> One clear example of military intervention in the Kurdistan region was when forces belonging to the KDP prevented the speaker of Parliament, Dr Yusuf Mohammed, from entering Erbil city to attend Parliament on 12 October 2015. This occurred for two main reasons. First, there were demonstrations in the city of Sulaimaniyah against the government for not paying the wages of public employees for four months and demanding reforms. Yusuf Mohammed's party, Gorran (GM), is based in Sulaimaniyah, and during the demonstrations protesters attacked some KDP offices and burned them down. The KDP accused GM of encouraging and directing people in the attacks. The second reason was that GM and three other parties (PUK, KIU and IG) are against a third term for Massoud Barzani (leader of the KRP) as president of the KRG. (<http://ekurd.net/kurdistan-parlt-speaker-prevented-2015-10-12> [Accessed on 11th November, 2015]).

3. Foreign control of those hostile to democracy. The invasion of Iraq by coalition forces was not against democracy in the region. Rather, the coalition forces liberated Iraq from a dictatorship and helped the country to build a democratic political system through the Provisional Coalition Authority. But, on the other hand, the foreign intervention provided an excuse to extremist Islamic groups, along with former Baa'th party members, to fight the new Iraqi government and considered them as traitors because they were backed by the US. These situations created ethnic and religious conflicts and subsequently internal war and violence in the country. As a result, the political institutions designed in the light of the new constitutions could not achieve their aims as democratic institutions in the region;
4. A modern market economy and society. The Kurdistan market could to some extent be considered modern due to the fact that the KRG relies financially on the central Iraqi government, which always provided limited support for the region. The KRG strongly relies on oil production, and political influence on the market and corruption dominate important aspects of economic life, and as a result markets are dominated by a number of political principals;
5. Weak sub-cultural pluralism. Like Dahl, Alesina et al. (2003) argue that multi-ethnic countries are more open to corruption than single-ethnicity ones. Even though, in theory, the federal system in Iraq has been considered the best solution for the problems derived from the multi-ethnic and multi-religious nature of its population, issues between different factions of Shia, Sunni and Kurds have not yet been overcome (UK Home Office, 2014). Despite all the shortcomings, there is progress in some regions, in particular in the Kurdistan region, where cultural, religious and political rights have been given to other minorities. The KRG shares power with all other ethnic and religious minorities present in the region. However, the situation is quite different in the north and south of Iraq, where most ethnic and religious groups became involved in war and violent clashes, which are still going on in many parts of Iraq, including Baghdad, Mosul, Dyala, Salahaeen and Kirkuk.



## **Chapter 6**

### **Corruption**

#### **Introduction**

Most of the interviewees considered corruption as a symptom of bad governance. This phenomenon should be given particular attention by this study in particular because corruption was referred to as a fuel that continuously feeds bad governance by the elites in Kurdistan.

This chapter intends to address the following questions: 1) what are the different forms of corruption in Kurdistan? and 2) what is the extent and level of corruption in Kurdistan? However, to answer these questions this study needs to outline certain other relevant issues. The chapter begins with a brief introduction to the general theme, and an examination of the literature to provide some background to corruption, in particular its history, definitions and potential forms. The main factors that cause corruption are outlined among the factors that create obstacles to implementing the constitutions. Chapter 7 outlines possible reforms.

#### **Definition**

Researchers have failed to find an accurate and precise definition of corruption for two reasons. First, corruption can be defined differently depending on the cultural or economic context (Gould, 1991). For example, in some countries corruption has become an accepted mode of behaviour and a bribe can even be called a sweet or a gift. Second, as with many other criminal offences, many activities fall into a grey area where the intention of the giver must be considered.

Caiden (1991, p.249) gives an explicit definition to the concept of corruption: “abuse of authority, bribery, favouritism, extortion, fraud, patronage, theft, deceit, malfeasance and illegality”. However, others tend to give a more general definition, referring to corruption as “use of one’s official position for personal and group gain”. This includes various unethical activities, such as bribery, nepotism, patronage, divided loyalty, favouritism, influence-peddling, moonlighting, misuse of government assets or property,

receiving kickbacks, embezzlement, extortion, fraud, over- or under-invoicing, interference with the judicial process, and use of regulations and policies as bureaucratic capital (Gupta, 1995, p.388).

Other researchers define corruption as an abuse of public power for private benefit, stating that corruption is an official's behaviour which deviates from his public duties because of selfishness (for personal gain, or that of close friends and family), pecuniary or status gains, or violation of rules against the exercise of certain types of self-centred influence (Bardhan and Mookherjee 2000; Tanzi, 1998; Pavarala, 1996, p.134–5). For the purpose of this study, corruption is taken as “the abuse of official position or public power for private benefit”. However, in many corruption cases the misuse of public power is not essential for the private advantage of an individual, but it can be to the advantage of an individual's class, party, friends, tribe or family.

### **Nature of Corruption**

Corruption is a widespread universal phenomenon, which has existed in one form or another since ancient times, going back to 300 BC when Kautilya, the minister of a Hindu king, wrote about corruption in India. However, researchers only started to study corruption more intensively after the world's economies became more globalised (Campos and Pradhan, 2007, p.15). Corruption can be found in various countries and has affected all societies to different degrees and at different times, regardless of their ideologies, religions, legal systems, income levels, economic status and social development. Although some societies may be more vulnerable to corruption than others, no country in the world today is immune (Stapenhurst and Kpundeh, 1999).

Corruption is both a cause and consequence of weak governance. Combating corruption by its nature therefore requires both preventive action (to close the door to corrupt individuals) and punitive action (to impose sanctions for corrupt activity). This approach has been adopted by the United Nations Convention Against Corruption (UNCAC) (United Nations, 2004). Corruption prevention measures require the state to encourage government institutions to operate in a more effective, accountable and transparent way, to adhere more to the rule of law, and to strengthen democracy through public

participation. On the punitive side, UNCAC recommended that corruption should be criminalised at different national and international levels (United Nations, 2004).

### **Overview of Corruption in Kurdistan**

Corruption in Kurdistan can be defined as the abuse of power by the ruling class for personal and political gain. A judge of the Criminal Court (interviewee 35) defined it as “misuse of public resources by a civil servant and/or a politician for private profit”.

One of the questions discussed with the interviewees was the main internal issues faced by the Kurdistan Region that the government must address. Nearly 95% (39 out of 41) said corruption. Meanwhile, Kurdish national problems and land disputes were considered the main external issues that need to be addressed.<sup>106</sup>

Several interviewees (8, 13, 17, 20, 22, 27, 36 and 41) gave various explanations as to why they considered corruption as one of the most important problems in Kurdistan. These included its effects on the democratic system and the election process, reducing economic growth, reducing the capacity of government institutions to perform their duties, and reducing the quantity and quality of public services. Furthermore, corruption can create an environment of mistrust between the authorities and citizens in Kurdistan and cause insecurity among the Kurdish people.

A report by the UN Office on Drugs and Crime shows that corruption is one of the major problems facing the authorities as they try to establish the basis of a new democratic system for all of Iraq, not just Kurdistan (UNODC, 2013).<sup>107</sup> According to Transparency

---

<sup>106</sup> At the time of the interviews, Kurdish cities/towns such as Kirkuk, Khanaqin, DuzKhormato, Makhmur and Sinjar were under the control of the central Iraqi government. On 13 June 2014, ISIS captured the city of Mosul and pushed back Iraqi troops; Kurdish Peshmerga forces have since reclaimed most of these areas.

<sup>107</sup> The UNODC’s research is based on evidence collected in 2011 through two large-scale surveys, one of government officials and the other of the general population of Iraq. The data was collected through three different sources:

(1) ICS Survey 2011: this survey was carried out by Central Statistical Office (CSO) of Iraq and the Kurdistan Region Statistical Office (KRSO), with the help of UNODC and UNDP, during July and August 2011. This survey covered 33 ministries and institutions in the central Iraqi government and 22



International's annual report on perceived levels of corruption, Iraq is considered one of the most corrupt countries in the world and comes at the bottom of the list over the last few years (Transparency International, 2011). Despite the significant positive contributions of natural resources to economic growth, as an oil-rich state Kurdistan is not excluded from corruption connected to oil deals. Contrary to the constitution and the Oil and Gas Law, the KDP and PUK sometimes make deals with foreign companies without the knowledge of parliament and the government (Pagnamenta, 2009). Some oil deals are concluded between Kurdish politicians and the foreign oil industry away from the eyes of the public and even the government. Most of these deals are arranged for the personal benefit of the major politicians in power and their political parties (Qadr, 2007, p.225).<sup>108</sup>

The Arab Spring uprisings by the people of Tunisia, Egypt, Yemen and Libya, and the demonstration in Sulaimaniyah on 17 February 2011 against the government, forced the KRG and parliament to take the matter of corruption seriously.

Understanding the significance of the issue, on 9 April 2011 the president of the KRG established a special commission to combat corruption, the Kurdistan Region Reform Commission (KRRC), which consisted of 18 high-level judges and MPs. The KRRC published a 34-page report on 11 March 2012.<sup>109</sup> This report demonstrated that the government was suffering from a poor system of governance; there was corruption at

---

ministries and institutions in the KRG. The survey covered working conditions, recruitment practices, job satisfaction, reporting of corruption, and integrity of public officials. Over 31,000 officials took part (representing a total of 1,867,000 officials in 55 institutions).

(2) The Iraq Knowledge Network Survey (IKN) 2011: this survey was conducted by the CSO and the KRSO, with the assistance of UN agencies. The survey covered most Iraqi government institutions, and 29,000 households. Data was gathered on various forms of corruption, in particular bribery, plus reporting practices and perceptions of corruption.

(3) Iraqi Commission of Integrity Administrative Dataset on Corruption: data was collected by the Commission of Integrity (CoI), one of the leading anti-corruption bodies in Iraq. Data was about the number and type of corruption cases that reached the courts between 2006 and 2011. This data gave a clear statistical picture of criminal cases of corruption.

<sup>108</sup> This claim has also been asserted by a majority of the interviewees.

<sup>109</sup> See KRG press release at <http://ogi.krg.org/articles/detail.aspx?lngnr=12&anr=36344> [Accessed on 3rd October, 2014]

various levels in government institutions, political intervention in the government's work, and poor government planning and strategy for development and reform.

The report showed corruption in the following areas:

1. Health system (poor quality of health services, providing low-quality and/or expired medications and fake medications);
2. Sale and rent of public land by the government, such as selling or hiring commercial land for a very low price and without auctions (as required by law), and land deals contrary to the rules and regulations;
3. Red tape and bureaucracy in public offices, leading to unreasonable delay and corruption;
4. Granting of government contracts and tenders against rules and regulations due to favouritism or bribe-taking;
5. Government budget (both revenue collection and spending lacked transparency and were suspicious);
6. The Ministry of Natural Resources did not have a clear administrative structure and lacked transparency and accountability in oil deals; and
7. Recruitment in the public sector (appointments based on favouritism and clientelism, unlawful promotions and retirements).

In particular, the report pointed out that there was major corruption in the area of the appointment and promotion of guards, security forces and Peshmerga; a large number of people had been appointed to these sectors, although in reality they were not needed. For example, the government appointed too many security personnel to guard the headquarters of the political parties and the tribal heads, and these people were being paid from public funds. The report stated that there were also many "*bindewar*", a Kurdish term for ghost employees – names of employees in the public sector who either did not exist or existed but did not perform any work. These people had been appointed by politicians as public employees because of political or family relationship considerations; sometimes high-ranking people appointed them

in order to receive or share their wages.<sup>110</sup> However, the report had certain shortcomings:

1. Although it points to defects in the governance system in general, it does not go into problems in detail;
2. It does not point out the causes of the various forms of corruption mentioned;
3. It is silent about who is behind the corruption and who should be held responsible;
4. Apart from pointing to failings in the recruitment system for judges, it does not mention any failings in the judicial system; however, according to the interviewees and other documentary evidence, the judiciary is considered one of the main causes of corruption in the Kurdistan Region, and even as a root of all corruption (PUK MP, interviewee 5); and
5. The recommendations for reform are vague and general.

According to a High Criminal Court judge (interviewee 10), from the early days of the first government to the last few years these political parties did not even call corruption by its true name: they called it “lack of experience”, or referred to the government as a “baby government”. In making such a claim, they tried to deceive people into accepting the unhealthy condition of government administration; they also tried to justify corruption, giving people false hope of reform and improvement. According to Qadr (2007, p.226), although some people – even among the ruling parties – raised their voices against government maladministration at the time, these free voices were stifled by the majority with the argument that corruption was not as high a priority as fighting the enemies of the Kurdish people. In other words, they preferred a level of failure in governance to being oppressed by their enemies, and accepted freedom with no bread.

However, there is evidence that corruption exists at various levels, and a distinction is generally drawn between political or grand corruption on one hand and administrative or

---

<sup>110</sup> All these forms of corruption listed in the report were also mentioned by the interviewees in various ways.

petty corruption on the other. A number of interviewees believed that corruption in Kurdistan had reached a point that could no longer be justified or tolerated (interviewees 1, 3, 10, 17, 27 and 36). A number of governmental and non-governmental organisations were formed to tackle the problem.<sup>111</sup> Every newspaper edition carried at least one article on corruption (Qadr, 2007, p.226).

On the basis of the above discussion, this study hypothesises that:

1. Corruption, large and small, exists within the various public departments in Kurdistan;
2. Since every country has its own distinct historical, cultural, economic and political circumstances, the causes of corruption and recommendations for combating it in Kurdistan may be different from other countries.

### **Existing Laws and Regulations on Corruption**

Despite a number of shortcomings in Iraq's anti-corruption law, Global Integrity considers it to be clear and comprehensive. However, the problem is that the existing law and regulations are not implemented adequately. In 2008 Global Integrity gave Iraq a score of 75 out of 100 for its anti-corruption legislation, but only 32 out of 100 for its enforcement (Global Integrity, 2008). However, there is no specific anti-corruption law in Kurdistan.<sup>112</sup> On 6 October 2011 the Kurdish Institute for Elections submitted a draft anti-corruption law to the parliament, consisting of 24 sections and targets for combating corruption in Kurdistan.<sup>113</sup> But, according to a GM MP (interviewee 18), this is yet to be enacted due to the lack of sufficient political will to tackle corruption. Other commentators in Kurdistan also believe there is no sign of improvement because of lack

---

111 Examples include Parliament's Integrity Committee, the KRG Office of Governance and Integrity, the Kurdistan Region Board of Supreme Audit, and the Kurdistan Anti-corruption Organisation.

112 In 2012 the US Department of State suggested that the lack of effective legislation to fight corruption in Iraq, and the lack of true political will to combat it, have had a negative impact on the country's anti-corruption strategy and left the institutions of governance incapable of fighting it. Available at: <http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm#wrapper> [Accessed on 9th October, 2013]

113 See Kurdish Institute for Elections official website <http://www.kie-ngo.org/newdesign/DirejePA.aspx?Jimare=20> [Accessed on 12th December, 2013]

of genuine will by the political parties in power to reduce corruption. The situation is very similar to that in the Philippines, which has introduced seven laws and 13 anti-corruption agencies since 1950s; but the Philippines has failed to eliminate corruption through anti-corruption mechanisms, due to a lack of will of its leaders (Abdullah, 2008).<sup>114</sup>

The Iraqi Penal Code of 1969 criminalises various forms of corruption. Chapter Six of the Code (Offences in breach of the duties of office) includes graft (Articles 307 to 309),<sup>115</sup> bribery in the public sector (Articles 310 to 313)<sup>116</sup> and embezzlement (Articles 315 to 320).<sup>117</sup> In addition, the Disclosure Law of 2011 notably includes mandatory

---

114 A Transparency International report considered that a lack of political will to combat corruption is also the main reason for the failure of anti-corruption strategies in Albania, Kosovo, the FYR of Macedonia and Turkey (Transparency International, 2011).

115 Article 307 states:

(1) Any public official or agent who seeks or accepts for himself or for another a gift, benefit, honour or promise thereof to carry out any duty of his employment or to refrain from doing so or to contravene such duty is punishable by a term of imprisonment not exceeding 10 years or by detention plus a fine which should not be less than the amount he sought, was given, or was promised but should not, under any circumstances, exceed 500 dinars.

(2) The penalty will be a term of imprisonment not exceeding 7 years or detention if such request, acceptance or receipt occurs with intent to receive remuneration after such duty is or is not carried out or following the contravention of such duty.

116 Article 312 states: The following persons are punishable by detention:

(1) Any person who seeks or receives a gift, benefit or privilege believing it to be a bribe for a public official or agent with intent to keep it for himself.

(2) Any person who receives or accepts such gift, benefit or privilege while being aware of its purpose even though the public official or agent to be bribed has not already specified or become aware of it, as long as he is not an intermediary in the act of bribery.

Article 313: Any person who offers a bribe to a public official or agent and he does not accept it is punishable by detention or by a fine.

117 Article 315 states: Any public official or agent who embezzles or conceals funds, goods, documents establishing legal rights or other things that come into his possession is punishable by imprisonment. The penalty will be life imprisonment or imprisonment for a [term] of years if the public official or agent is a tax collector or his deputy or deposit trustee or money changer or if he embezzles anything surrendered to him in his capacity as such.

Article 316 states: Any public official or agent who exploits his position in order to obtain funds, goods or documents establishing legal rights or other things to which he is not entitled and which belong to the

financial disclosure measures for government officials in high positions. Money laundering is covered by Coalition Provisional Authority Order No 93 (Anti-Money Laundering Law of 2004), which provides more detail about money laundering, financing crime, financial support for terrorism and structuring certain transactions.<sup>118</sup>

Some writers believe that an element of corruption is due to defects in the law and regulations in Kurdistan (Karim, 2010b). A PUK MP (interviewee 5) stated, “From my understanding we may require new regulations and new laws for combating corruption. There are some laws scattered between the different sections of the criminal law, criminalising bribes, misuse of power and corruption, but these are not enough.” In this regard a judge of the High Criminal Court (interviewee 10) was of the opinion that, although the 1969 Penal Code includes some sections (as above) about using public office for private gain, they are too general and give judges wide discretion in their application. There is no specific law to deal with detecting corruption or punishing those who behave corruptly. Furthermore, according to Global Integrity, major shortcomings with the current anti-corruption laws are the lack of a specific law to address bribery in the private sector or of foreign officials, trading of influence, and insufficient protection of witnesses and whistle-blowers (Global Integrity, 2013). At the time of writing, a new draft anti-corruption law is under discussion in parliament, which, if approved, may cover a number of these deficiencies.<sup>119</sup> However, it is unlikely to be passed in current circumstances, partly due to the many crises that face the KRG, such as budget shortfalls and the war with ISIS – but mainly because of lack of political will to fight corruption.

The authorities themselves sometimes legalise corruption. In other words, corruption is supported by the law. For example, some interviewees (2, 6, 9 and 19) mentioned that

---

State or to an establishment or organization in which the state has a financial interest is punishable by imprisonment.

The penalty will be a term of imprisonment not exceeding 10 years if such funds, goods, documents or other thing belong to some entity other than those mentioned in the preceding Sub-Article.

118 See the Anti-Money Laundering Act of 2004. Available at

[http://www.iraqcoalition.org/regulations/20040603\\_CPAORD\\_93\\_Anti-Money\\_Laundering\\_Act\\_of\\_2004\\_with\\_Annex.pdf](http://www.iraqcoalition.org/regulations/20040603_CPAORD_93_Anti-Money_Laundering_Act_of_2004_with_Annex.pdf) [Accessed on 10th December, 2013]

119 Kurdistan Parliament website (<http://www.perlemanikurdistan.com/>) [Accessed on 10th November, 2014]

people in power have used the Penal Code many times against those who speak out and against those who fight corruption. In particular, they rely on some sections of the 1969 Penal Code that relate to the offences of libel and defamation (Karim, 2010a). There are some inconsistencies in the Press Law in the Kurdistan Region 2007, which regulates the press in Kurdistan; for example, Section 5 of the Act deals with the protection of journalists and gives some freedom to the press. However, Section 9 states that any journalist behaving in contravention of the Act could be fined a minimum of one million Iraqi dinars and a maximum of five million (GBP 600–3,000).<sup>120</sup> This Act has sometimes been used by those in power as a tough weapon against the independent free press, which highlights corruption (Sidiq, 2011).<sup>121</sup>

Furthermore, Iraq has no specific law for regulating the sources of finance used by the political parties. This loophole facilitates political corruption by the ruling parties during elections, through the misuse of public funds for political advantage (Global Integrity, 2008). Until early 2013, there was no specific legislation in the Kurdistan Region to regulate access to public information; Articles 2 and 7 of the 2007 Press Law dealt with the right of journalists to access data and information, but there was nothing in the Act to oblige public offices to provide information. However, the Kurdistan Parliament has recently enacted a law giving the right of access to government information. Some of the MPs and judges interviewed considered this law an open door for journalists, the public and parliament to access government information, and agreed that this was a very good thing, if implemented, as it could improve transparency and accountability in the region (interviewees 5, 7, 10, 26, 35 and 40).

### **Forms of corruption**

The majority of interviewees were of the opinion that the main cause of all forms of corruption was the fact that the government is not independent of political parties and

---

120 GBP1.00 = 1,632 Iraqi Dinar (IQD) as at 27 December 2015.

<http://www.xe.com/currencyconverter/convert/?Amount=1&From=GBP&To=IQD> [Accessed on 27th December, 2015]

121 “The Press Law in the Kurdistan Region, Law No 35 of 2007”. Available at <http://gjpi.org/wp-content/uploads/2009/01/press-law-in-the-kurdistan-region.pdf>

tries to pursue its interests in various unlawful ways. Politicians sometimes force or pressurise public-sector officials to do things that are unlawful or contrary to policy and regulations, or prevent them from doing things they are required to do by law (Karim, 2010a). Hence, corruption may appear in various forms. The following sections outline the main forms of corruption in Kurdistan.

### ***Corruption in the oil industry***

This is discussed in detail in Chapter 7.

### ***Corruption in the recruitment and retirement system***

The preamble of the Iraqi constitution emphasises the principle of equality and equal opportunities for all citizens.<sup>122</sup> Article 14 states that “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion, or economic or social status”. Article 16 puts the responsibility on the state to take necessary measures to achieve equality among all citizens at various levels. The question is whether the KRG has taken the measures required to ensure equal opportunity in relation to public-sector recruitment for all citizens without discrimination.

According to Jennings (2003), the method of recruitment has to be connected with human rights, independent courts, the rule of law and free media. Dahl (1998, p.85) is among those who emphasise the principle of “inclusive citizenship” and argues that a democratic state must include all persons subject to the law of that state; all individuals, regardless of their ethnicity, gender, religious and racial backgrounds, should have equal opportunity to participate in and benefit from the state. In this regard, an academic (interviewee 31) commented that

We must view democracy from two dimensions. The first is the public’s awareness of their rights, one of which is the right to work for a fair income and in a healthy and safe environment. The second dimension is that the

---

122 “Sectarianism and racism have not stopped us from marching together to strengthen our national unity, following the path of peaceful transfer of power, adopting the course of just distribution of resources, and providing equal opportunity for all.” Preamble, Iraqi Constitution, 2005.



authority must acknowledge this right and offer jobs for their citizens through a powerful strategy and plan.

It has been revealed by national and international reports that, contrary to these principles, in Kurdistan membership of the ruling parties confers special privileges and advantages in public employment and education. There were some reports that the KDP and PUK prevented the employment of citizens who did not belong to their party (UK Government, 2012).

Despite constitutional provisions for safeguarding, the recruitment system remains one of the great challenges facing the QoG process in Kurdistan. This is partly because the largest group of workers in Kurdistan are employed by the KRG: nearly 1.4 million people (one-third of the population) either work in the public sector or are paid by the government (Munro Robb, 2010, pp.396–407). Apart from recruiting employees throughout the year according to the needs of different institutions, the Office of the Prime Minister recruits large numbers of employees once a year, mainly based on which population group needs jobs rather than on the professions and skills needed by government offices. According to a government official (interviewee 22), this is because KRG institutions have no specific job descriptions.

In answer to the question whether all citizens in the KRG have equal opportunity to work in the public sector, some interviewees from the ruling parties were happy with the current government recruitment system, but a majority of interviewees confirmed failings in the system and argued that nepotism and favouritism existed in the recruitment process, which was mainly motivated by political influence.<sup>123</sup> A judge (interviewee 7) stated: “I think granting jobs or high positions to the families, friends and loyal members of the ruling parties constitutes a large proportion of the types of corruption”.

---

123 In this regard, an MP from GM (interviewee 18) described his personal experience, saying: “When I joined the opposition, I was sacked from my post. In 2009, nearly 3,000–4,000 people were made redundant because they joined the opposition ... Through this type of action, the authority is not only aiming to punish the opposition, but also to intimidate people and tell everyone that they can take the livelihood away from anyone who supports the opposition. In contrast, if you support the authority you can get anything you want – a good job, a fair wage, land and a nice house.”

Corruption in recruitment in Kurdistan takes the form of nepotism (the favourable treatment of people because of friendship, family relationships and political influence in the distribution of resources and positions), regardless of their qualifications, experience and entitlements. One academic (interviewee 20) commented that

Apart from what was known as political posts – such as mayors, high-position posts, deputies, ministers and MPs – the ruling parties managed the recruitment of other posts of government such as city and town government, directors-general, school directors, and deans and managers of universities. In addition, all military, police and security service officers are recruited by them directly, mostly from among their members.

Similarly, one KIU MP (interviewee 28) claimed that 95% of decision-makers were recruited, directly or indirectly, by the ruling parties and worked under their control. The way the interviewees spoke gave the impression that corruption in the public sector was the norm and was accepted by society. People expected that these high positions would provide additional support for those working in the same political parties, as well as their families and friends, for showing loyalty. As a result, most essential government posts have been filled by unskilled and incompetent people who, first, cannot perform their job appropriately; second, must be loyal to and faithfully work in the interest of the politicians who helped them get that job; and, third, can only perform low-quality jobs at a high cost. Recruitment in this way created corruption in the public sector, which cannot be easily dealt with (interviewees 3, 10, 18 and 30). This has been confirmed by Farhad Hussain, the Director of Public Prosecutions for Sulaimaniyah (Hussain, 2015).

Corruption in recruitment exists even in the Parliament. For example, in 2011 the Speaker of parliament appointed more than 20 people as advisers. He noted that, according to parliamentary rules, an adviser must have a Bachelor's degree. However, following an investigation by parliament itself, it was revealed that some of these advisers did not even have secondary-school certificates but were given these jobs in any case, because of favouritism (PUK MP, interviewee 5). A KIG politician (interviewee 18) suggested that corruption is rooted in political loyalties. The PUK and KDP have been in continuous competition to buy the loyalty of people by recruiting them to the public sector without giving consideration to their qualifications and experience. In determining the causes of corruption in the recruitment system, one KDP politician (interviewee 29) stated:

Of course there is favouritism in the recruitment system; there are political influences, and the ruling parties support their members. We must bear in mind that internal fighting had a very serious effect on corruption: the political parties who participated needed the support of their members, and therefore had to secure their livelihoods by any means.

He also tried to explain the problem in the recruitment system, blaming corruption within it entirely on culture and conflicts.

There are three major issues involved in understanding the recruitment process by political groups in Iraqi Kurdistan. The first is economic. In March 2012, the KRG announced that unemployment had risen to 14% (KRG website, 2014). To address this, the government recruited people who otherwise would have been without a source of income. The second issue is the political factor; since the elections in 1992, the regional government and the Kurdistan parliament have been distributed between the two main parties, which have rewarded their supporters with positions in the public sector. The third issue is tribal: to attract their loyalty, the government tends to recruit among certain clans and tribes.

However, the recruitment process has seen some reform. Following a parliamentary directive in 2013, the KRG established a commission to manage the recruitment process – the Razha Council.<sup>124</sup> According to a number of MPs interviewed, the main purpose of this committee is to act as an independent body to reduce political intervention in the public-sector recruitment process. However, the first problem in forming this committee was that its members were chosen from the main political party, which some of the interviewees worried might cause the new mechanism to fail. Hassan Abdulla, a member of Sulaimaniyah Province Council, expressed his

---

124 According to the government, this committee consists of the presidency of each governorate and members of the provincial council, a representative of the Ministry of Economy and Finance, the director-general of the governorate treasury, a representative of the Ministry of Planning and the director-general of the governorate statistics department (KRG official website).

concern stating that for the Razha Council to gain the public's trust its membership must include all political parties, rather than only the two main ones.<sup>125</sup>

However, the majority of interviewees agreed that in recent years there have been some improvements in the recruitment system for regular positions, and the KRG has started to recruit its employees with consideration of experience and qualifications on a points-based system. According to the official website of the Ministry of Labour and Social Affairs, the government recruited more than 50,000 new employees in 2011, nearly 20,000 in 2012, and 17,000 in 2013.<sup>126</sup> The vacancies were announced in the media several weeks in advance and candidates were mainly recruited through the submission of application forms and CVs. However, a majority of interviewees believed that many people were still recruited due to their loyalty to the ruling parties, or their relationships with high-position politicians or officials, regardless of their merit. In particular, most interviewees confirmed that there was favouritism and clientelism in recruitment for high- and medium-level positions in the government.<sup>127</sup> There is still not equal opportunity for people to get public-sector jobs; in particular, according to Ahmed (2009), in order to be enlisted as a police officer or a member of the security forces or Peshmerga, one must be recommended by one of the ruling parties.

This study found that there has been an improvement in recruitment for lower-level positions. However, in relation to high-level positions, it argues that, before considering any qualifications or experience, the government still gives weight to political loyalty. For example, even after the establishment of the new Committee for Recruitment, the

---

125 See "Government plans to hire 25,000 employees this year". Kurdish Globe, 24 April 2011.

Available at:

<http://www.kurdishglobe.net/displayPrintableArticle.jsp?id=3133FB20C8A4DF5EC5BA9B31D3ED0885> [Accessed on 2nd February, 2013]

126 Official website of the KRG Ministry of Labour and Social Affairs. Available at <https://www.evtc-krq.org/ku> [Accessed on 14th December, 2014]

127 For example, the president of the KRG is Massoud Barzani; his nephew, Nechirvan Barzani, is the prime minister; his son, Masror Barzani, is head of the KRG's Intelligence Directorate; his uncle, Hoshiyar Zebari, was foreign minister of Iraq and is the current minister of finance; and many other relatives held high positions in the government (US Embassy Baghdad: "Iraq 2001: Kurdish Political Landscape," 30 March 2009. Available at: [http://www.wikileaks.org/plusd/cables/09BAGHDAD859\\_a.html](http://www.wikileaks.org/plusd/cables/09BAGHDAD859_a.html) [Accessed on 14th October, 2013])

Office of the Prime Minister – contrary to the parliamentary regulations – recruited employees on the basis of favouritism and nepotism. For instance, the Office of the Prime Minister issued an official document ordering the recruitment of some new employees without consulting the guidance for recruiting employees in the public sector. Latif (2010) believes that corruption in recruitment will not stop, but will increase; for example, he states that, in 2010, the opposition parties discovered that 35,000 officials had been illegally appointed. Some of these jobs did not even exist: they were fictitious positions and the associated wages were taken by politicians and their families. There are others who draw their wages from public funds as government officials but actually work for their political party. Qadr (2007, p.226) writes that “there are thousands of the ruling party members working in their party’s offices and getting their wages from public money”.

Apart from the recruitment system, there are some fundamental defects in employment regulations. In Kurdistan, the employment law allows anyone who has served in the public sector for 15 years to retire at the age of 60 for men and 55 for women.<sup>128</sup> This is lower than the standard age of retirement in most other countries (65 for men and 60 for women).<sup>129</sup> Furthermore, every four years the government retires MPs, ministers and other high-level officials but continues to pay them 80% of their original salaries. In this regard, a government official (interviewee 16) stated that the government retired thousands of people when they were still in their 30s or 40s. According to the head of the parliamentary human rights commission, before the 2013 elections the KDP – through the director-general of pensions, who was a KDP member – retired 27,000 KDP supporters as Peshmerga veterans in an attempt to win their votes (Hassan, 2015).

In addition to the normal, legal methods of retirement, other people are given the retirement wages of high-ranking positions although they never served in such positions. A government official (interviewee 16) stated

---

128 Alternatively, men have the right to retire at the age of 55 if they have completed at least 30 years of service, while women are eligible to retire at 50 if they have at least 25 years of service (Civil Service Law for Government Employees (Law No. 24 of 1960)).

129 See the list of retirement ages for men <http://www.tradingeconomics.com/country-list/retirement-age-men> and for women <http://www.tradingeconomics.com/country-list/retirement-age-women> [Accessed on 12th August, 2015]

There are a large number of politicians and their families who have been illegally retired with the ranks of minister, deputy minister, director-general, deputy director-general and police officer although they never held such positions in their life.

In August 2014, Ali Hama Salih, Deputy Head of the Finance and Economic Affairs Committee in the Kurdistan Parliament, announced that 10,000 people had been appointed as practical managers in the public sector. However, these people never worked in any government office; rather, they were politicians who worked for their own parties. Salih said that these people were appointed illegally as “*bindewar*” (Standard News, 2014). The same committee provided the media (who published it) with a list of 404 female “*bindewar*” (all members of the PUK, one of the ruling parties) who had been illegally “retired” as military officers with ranks ranging from lieutenant to major general.<sup>130</sup> The committee emphasised that all these people were politicians and that they had never served in the military forces (NRT.TV, 2014).<sup>131</sup>

In a January 2015 interview with Kurdish News Network (KNN), Soran Omar, a KIG MP and Head of the Human Rights Committee in Parliament, stated that, during an official visit to the Ministry of Finance, an unnamed high-position official told him that, in 2014, pursuant to an order from one of the ruling parties, the ministry had issued a decision appointing 2,000 people as public employees on a Thursday and, three days later, issued an order retiring all 2,000 people while continuing to receive 80% of their original salary.<sup>132</sup>

---

130 An amusing story about corruption in such illegal retirements – which actually happened – concerns someone who, having been retired with the rank of major and told by his political party to go to the national bank to collect his first retirement payment, when called to the window, showed his ID. The staff member asked him about his name: “Are you Raaid?” (“major”). He responded: “No, I am Faraj”, as he did not even know the meaning of “Raaid”. This story was recited by a guest on the programme “Lagal Ranj” on Rudaw TV on 14 November 2014. Available at:

[http://rudaw.net/english/onair/tv/programs/program/lagal\\_ranj](http://rudaw.net/english/onair/tv/programs/program/lagal_ranj) [Accessed on 23rd May, 2015]

131 Available at: <http://nrttv.com/all-details.aspx?jimare=62123> [Accessed on 12th October, 2014]

132 Interview with Soran Omar, MP. KNN Channel, January 2015. Available at:

<http://www.knnc.net/mob/Drejey-hawal.aspx?id=40311&LinkID=4&video=False> [Accessed on 23rd September, 2015]

Hama Salih added that, after 2007, the ruling parties illegally registered 100,000 pensioners as retired with various official ranks and they were paid only because of their political allegiances; among them were politicians and their families and friends (NRT.TV, 2014).<sup>133</sup> This has been confirmed by Shanaz Ibrahim Ahmed, sister-in-law of the former Iraqi president, and a PUK leader, who announced to the Kurdish media that 100,000 pensioners were being paid for their political loyalties – 63,000 belonging to the KDP and the rest to the PUK (Mufid, 2014). Within months, the committee published the names of 46 people who were being retired and paid wages as minister, director-general or ministerial advisor, although none of them had held such positions in the past. Even now, they continue to be paid and receive a pension of between 400,000 and 6,000,000 dinars – giving an average of 1,000,800, nearly four times the salary of a school teacher (NRT.TV, 2014).

The foregoing demonstrates that, although the parliament and the government have tried to improve the recruitment, retirement and pension systems, it seems that the issue is deeply rooted in the political environment, dominated by the ruling parties which continue to intervene in the process. Hence, unless backed by genuine willingness by the politicians and the government, the formation of any new organisations and/or new recruitment mechanisms will not be successful. This was confirmed by a KIG politician (interviewee 41) who, more importantly, suggested that, “the politicians must completely stop their interference in the recruiting process. People must be recruited on the basis of necessity [in the public sector], competency, qualifications and experience”.

In relation to the public-sector recruitment system, this study recommends that:

1. Political will is fundamental for improving the recruitment system, and without it any effort at reform will not be successful;
2. A more effective and professional body be established to administer recruitment in the various sectors of government;

---

<sup>133</sup> Available at: <http://nrttv.com/all-details.aspx?jicare=62123> [Accessed on 12th October, 2014]

3. Proper regulations and policy on recruitment be enacted; candidates for public office must be selected only on the basis of merit (qualifications, professionalism, skills etc.) – this can reduce favouritism and nepotism in the recruitment process;
4. reducing the social and cultural norms of favouritism and nepotism through the education system and civil society organisations;
5. All state institutions must follow procedures specified by the rules and regulations.

### ***Corruption in land distribution***

After 2003, due to increasing population and the end of the 12-year-long economic sanctions on Iraq (including Kurdistan), the KRG began the distribution of plots of land, in particular in urban areas, for both residential and commercial purposes. The government issued certain rules and regulations, and a points-based system to govern the distribution of land. For residential properties, the government granted plots up to 200 square metres, for example, for those who had struggled or fought against the former regime before the uprising, the families of martyrs, and senior government employees according to their length of service. This strategy was set up to tackle the residential housing crisis in the region. The government also sold land to investors for less than the market price, on the condition that they build residential accommodation or commercial properties to be passed on to the public at a reasonable price (KRG official website). However, according to a number of interviewees, the system of land distribution was abused by high-ranking officials and politicians. A judge in the High Criminal Court (interviewee 7) stated: “Another form of corruption is inequality in the distribution of both residences and land among the people, in particular public-sector workers; the authority gave the best plots to those close to them”.

Nepotism sometimes involved distributing residential land which is supposed to be granted to people in the public sector according to the criteria of the points-based entitlement system. Instead of applying these criteria, the government sometimes considered political loyalty, friendship and family relationships (Qadr, 2007, pp.226–8). In addition, a GM MP (interviewee 17) and a government official (interviewee 16) argued that the government and politicians sometimes gave bribes to journalists in order to write articles favourable to them, gave them high positions in the public sector, or



land or money as a consideration for changing their opinion about the government or the ruling party.

This has been confirmed by Farhad Hussain, the Director of Public Prosecutions for Sulaimaniyah. He stated that, “there are too many cases of individuals taking public land, failing to find effective remedies for confiscating public properties, or the illegal registration of thousands of hectares of land in the name of different companies, political parties and individuals” (Hussain, 2015).

In addition, corruption sometimes takes the form of the sale of public land by the government for less than the market value. Ali Hama Salih published an official document issued by the Minister of Council, according to which 1,000,000 square metres of land was sold to an investment company for \$1 per square metre in order to use it for development. However, just a few months later the company sold the land without doing anything on it for \$1,000 per square metre. MPs believe that high-ranking government officials have shares in the company.<sup>134</sup>

In April 2011 the president of the KRG announced a project to fight corruption, and within a year nearly 800 hectares of land which had been obtained illegally was being returned to the government. However, this reform was described by one GM MP (interviewee 2) as “a tiny drop in the ocean” compared to the scale of corruption. This study therefore argues that corruption is a very serious issue that has not been properly addressed.

### ***Corruption in government contracts and tenders***

An academic (interviewee 20) claimed that “the government gives contracts to companies belonging to the ruling parties”. This was confirmed by many other interviewees (6, 7, 9, 19, 20, 35 and 36), who agreed that the government’s handling of tenders and contracts was another form of corruption in Kurdistan. Furthermore, a GM MP (interviewee 9) stated that there were some ministers who could not question certain

---

<sup>134</sup> Interview on “Lagal Ranj”, Rudaw TV), 31 January 2015 Available at: <https://www.youtube.com/watch?v=vG1RxLLrTbI> [Accessed March 2015] (Please note that the interviewee used “metre” as a measurement).

large companies because they belonged to the political parties. He added that some of these companies sometimes forced certain ministers to accept a particular contract with them or force them to grant them a particular tender without competition. In addition, the parties obtained all big government contracts for their own companies, owned by individuals or the parties themselves.

In response to peoples' protests against corruption and political monopoly in Sulaimaniyah's Sarai Azadi square (March–April 2011), the president of the KRG, Massoud Barzani, announced in a speech on 21 March 2011 that “all government contracts and tenders must be granted in a transparent way; contracts should not be given on the basis of patronage or closeness to political parties, and should not be sold to anyone”.<sup>135</sup> The KRRC report (2012) noted that, with its help, the government terminated some 118 of those contracts because of insolvency through corruption. However, some of the interviewees expressed their concerns that a large number of tenders were still being given to companies either directly or indirectly related to the ruling parties and their families and friends. They recommended further practical action by the government and parliament to stop corruption in the field of public-service tenders (interviewees 7, 9, 19, 20, 35 and 36).

### ***Other forms of corruption***

Interviewees also referred to other types of corruption, such as bribery and kickbacks; officials colluding to deceive the public; large-scale embezzlement through government tenders; economic privileges accorded to special political interests; embezzling government funds through false procurement (payment for non-existent properties and goods); and practising a policy of favouritism and discrimination in favour of ruling parties in exchange for votes and political contributions. A large proportion of corruption takes the form of financial corruption, according to a survey conducted in 2009 on a sample of 60 people, most of them university lecturers and students, politicians and officials. 50% of the interviewees believed that financial corruption was the main form of corruption in Kurdistan (Ahmed, 2009).

---

<sup>135</sup> Statement by President Massoud Barzani on the Reform Programme, 16 June 2011. Available at: <http://www.krp.org/english/articledisplay.aspx?id=24751> [Accessed on 12th December, 2013]

Corruption also occurs in the collection of revenues from tax, customs and bills (e.g. utility bills), while the resources of the councils and courts remain vague. According to a KIU politician (interviewee 14), the parliament estimated these resources to total US\$ 2–3 billion each year. Bribery is another form of corruption in Kurdistan; Madigan (2005) argues that for a contractor to win the contract for a state-funded project, he has to offer bribes. Kurdish entrepreneurs suggest that, in order to establish a company or secure a licence, a bribe in the form of a payoff or a stake in the business must be paid. According to the Iraqi Commission of Integrity, the principal circumstance under which people are forced to pay bribes involves the Council of Municipalities, when bribes are paid to get a piece of land or a particular contract (UNDP, 2013). Although bribery in the form of petty corruption forms only a small proportion of corruption in Kurdistan, a High Court judge (interviewee 7) considered that preferential treatment for political supporters and relatives is a major problem.

### **Which officials are more corrupt?**

It is very important to identify which officials or politicians are more corrupt because efforts to combat corruption would vary according to whether the corruption mostly involves people in a high or lower position. Furthermore, this can help the researcher to give clearer explanations of corruption. It is a common belief that in developing nations the ruling elites abuse power for their personal gain, while ordinary people suffer from the result and complain about it. The majority of interviewees were of the opinion that corruption by lower-level workers is very rare in Kurdistan compared to that perpetrated by high-ranking officials. A former president of the High Criminal Court (interviewee 10) believed that Kurdish people are known for being honest and are proud of having clean hands.

However, a former minister (Interviewee No 36) argued that “corruption exists among lower-level officials as well as top government officials; it is sometimes harder for top government officials to act dishonestly as they are under more surveillance and observation by the government and the parliament”. This study argues that corruption in the KRG involves not only high-ranking officials and politicians but also ordinary citizens. While the high-ranking elites have been accused of corruption, ordinary citizens have been involved by supporting the corrupt elites in conducting corruption as well as

helping them to stay in power, in return receiving various forms of grant, such as free wages from public offices, land and facilitating other work for them. This immoral relationship between the citizens and the elites in Kurdistan has become an exchange of favours between the two.

The above discussion makes it clear that it is very difficult to determine who is more corrupt. However, the evidence shows that corruption involves both high-ranking people and the lower ranks. But the high-ranking people should carry more of the blame because they have a duty to fight corruption at all levels.

Two academics (interviewees 7 and 20) believe that, as corruption is mainly conducted by people in high positions, corrupt officials can easily be spared punishment thanks to political influence, and for this reason it would be difficult to make an allegation against a particular minister. Farhad Hussain, the aforementioned Director of Public Prosecutions for Sulaimaniyah, argued that corruption is systematic in Kurdistan. He stated:

Corruption should bring shame and embarrassment to the people involved, but in our region when we try to charge a high-level politician, his political party defends him and wrongly criticises our organisation.<sup>136</sup>

Indeed, despite there being many cases of abuse of powers, a judge of the High Criminal Court (interviewee 7) stated “I have never seen any ministers charged or convicted for misuse of power”. For this reason, creating the political will to combat corruption is an important issue and reform should begin and be undertaken at the top of the governance system.

---

136 “The details of resignation application of Farhad Hussain, the director of public protection of Sulaymaniya office”. Hawlati newspaper, 8 January 2015 Available at: <http://hawlati.co/%D8%A6%DB%95%D8%B1%D8%B4%DB%8C%DA%A4%DB%95%DA%A9%D8%A7%D9%86/63501> [Accessed on 8th August, 2015]

### **Is corruption systematic and organised?**

The question of whether corruption is conducted in a systematic way is very significant because more systematic corruption will be more difficult to combat. Furthermore, the methods of combating systematic corruption are certainly different from unsystematic corruption. Systematic corruption is more difficult to uncover than individual corruption because it may involve key people. Reform efforts consequently have little impact on curbing systematic corruption (Kpundeh, 2000). However, non-systematic corruption involves all levels of employment and particularly appears where public officials' wages fall below a living wage; this motivates them to seek additional income through irregular means, which is not the case in the KRG. Non-systematic corruption can be dealt with more easily as politicians are more often willing to combat this type of corruption (Kpundeh, 2000).

A politician from the KIU (interviewee 8) stated that "one of the big concerns here is that corruption in this country is going on in a systematic way, from high-level politicians down to the lower politicians and officials". When asked what he meant by "systematic", he explained that "systematic corruption is organised and involves large numbers of politicians or/and officials, not necessarily pervasive or institutionalised, but recurrent, and it usually involves large earnings". He also argued that there is some indication of systematic corruption in some scandals over the past few years, such as the case of the oil deals and the killing of the head of the District of Sulaimaniyah. In this regard, Tuana Taha writes

the head of the District [Zana Hama Salih] was charged and arrested for being involved in corruption. He was involved in organised corruption, but unfortunately he was killed in detention to conceal the other high-level political conspirators. (Taha, 2013)

However, a former minister (interviewee 36) suggested that, even if corruption is currently considered unsystematic, it will become systematic because those involved have developed a common interest, and in order to protect their interests they will form groups and conduct corrupt activities in an organised way. Farhad Hussain (2015) argues that corruption is systematic. In some forms of corruption, it is unlikely for a single person to commit the offence, especially large-scale corruption such as oil deals; it can be conducted only by a group, such as a network. One of the other symptoms of

organised corruption is that the authority may disable monitoring institutions such as the financial auditing and monitoring commission, as well as parliament's integrity committee – and the parliament itself – because it is not in the interest of the authority for these institutions to play their roles.

The spread of systematic corruption in Kurdistan can be explained by other significant factors, such as the lack of political will for reform, a lack of professional ethics in public office, the involvement of high-ranking people in big corruption deals, the existence of a change-resistant attitude in the government institutions, and the absence of an independent judiciary and media. All these have contributed to ongoing systematic corruption in most of the state institutions in Kurdistan. This was confirmed by some interviewees (8, 10, 12, 17, 19, 20 and 29) and also by Karim (2008).

As outlined above, this research shows that there is no conclusive evidence of whether all forms of corruption in Kurdistan are systematic and organised. However, there is evidence to suggest that most large-scale corruption – such as over big government tenders, telecom companies, trade and oil deals – are organised and conducted by groups, and there are networks between the people conducting these forms of corruption in high positions (interviewees 8, 10, 12, 20, 27 and 29). This makes it more difficult for corruption in such areas to be discovered and tackled. On the other hand, fighting corruption requires a genuine political will and a long-term plan.

### **To what extent does corruption exist in Kurdistan?**

An academic in the field of human rights (interviewee 20) suggested that “the level [of corruption] is so high that it cannot be measured, or even called corruption, because it is above the concept of corruption. We should find another name for it – we might call it looting.”

In relation to the real level of corruption in the KRG, a judge of the Court of Appeal (interviewee 10) stated:

There is corruption, but no one can tell its true size because of the lack of information and evidence to identify it. The reason could be that conclusive

evidence of corruption is difficult to obtain, because of the secrecy surrounding illegal deals perpetrated by both the corruptors and the corruptees.

Hence, determining the true level of corruption in Kurdistan is not easy. However, to outline the perception of corruption apart from the existing sources and the qualitative interviews, this paper utilises two different international measures; the Worldwide Governance Indicators (WGI) produced by the World Bank and the Corruption Perceptions Index (CPI) provided by Transparency International.<sup>137,138</sup>

The WGI is one of the major international measures of QoG. In 2010–2014, Iraq (including Kurdistan) was ranked 12–17% for voice and accountability and 4–7% for the control of corruption. Considering these numbers, along with what has been mentioned by the interviewees and the other documents discussed above, one can conclude that the situation regarding governance and democracy in Kurdistan (as a part of Iraq) is at high risk and would be ranked well below the average.

Transparency International ranks countries based on various reports and expert evaluations. Countries are ranked according to their perceived level of public-sector corruption on a scale from 10 (very clean) to 0 (highly corrupt). In its report for 2014, which covered 174 countries, Iraq scored 1.5, and ranked 170th – five from the bottom of the list. This is similar to previous years (1.6 in 2013, 1.8 in 2012 and 2011, and 1.5 in 2010 and 2009), placing Iraq either third or fourth from the bottom.<sup>139</sup>

These scores can be compared and contrasted with the country perceived to be the least corrupt – Denmark – which ranks as number one with a score of 9, and the countries

---

<sup>137</sup> The WGI reports six aggregate governance indicators for nearly 200 countries and territories from 1996 to 2014. These measurements indicate how well a country is progressing in terms of i) Voice and Accountability, ii) Violence and Absence of Political Stability, iii) Government Effectiveness, iv) Regulatory Quality, v) Rule of Law, and vi) Control of Corruption. The scale is from 0% for bad performance to 100% for maximum good performance. The WGI are available at:

<http://info.worldbank.org/governance/wgi/index.aspx#home> [Accessed on 9th July, 2015]

<sup>138</sup> Transparency International's annual CPI ranks perceived levels of corruption in most countries of the world. Available at: <http://www.transparency.org/research/cpi/overview> [Accessed on 9th July, 2015]

<sup>139</sup> See the full reports at: <http://www.transparency.org/whatwedo/publications/doc/ar/> [Accessed on 24th November, 2014]

perceived as most corrupt, Somalia and North Korea (both of which rank 174th-equal, with a score of 0.8) (Transparency International, 2014). By analysing these figures from the 2014 CPI, it can be concluded that Iraq is perceived as a highly corrupt country. Kurdistan, as a part of Iraq, is not excluded from this corruption. Officials in the Kurdistan Region have openly admitted this; for example, Fuad Masum (2008), the head of the Kurdistan bloc in the Iraqi Assembly (and the current president of Iraq), admitted in an interview that the level of corruption in Kurdistan is high, stating, “No-one can deny that corruption [in the Kurdish administration] is widespread”. In an interview with Sbeiy News, Dr Rafiq, the former head of the Nazaha Committee in parliament, stated that “corruption is a phenomenon in Kurdistan and is going to increase day by day; it should be stopped” (Rafiq, 2009).<sup>140</sup> In an interview with Awene News, the head of the Kurdistan integrity commission, Dr Ahmed Anwar, stated that “many times I have told high-level politicians that there are so many cases of corruption that, even if everyone in Kurdistan became members of the integrity commission, we could still not cope with all the cases” (Awene, 2014).

Misusing state institutions and public resources have been used among other things in order to secure electoral votes through political domination and political tribalism, favouritism and clientelism. According to the majority of the interviewees of this research, corruption is therefore the most serious internal problem facing Kurdistan. An academic (interviewee 31) described how serious the issue is, stating that “the level of corruption is generally classified as white, grey or black; it is black in Kurdistan”. A Criminal Court judge (interviewee 12) was so disappointed that he believed that “the level of officials’ and politicians’ corruption is equal to the level of their power plus the money under their control”.

The interviews revealed a perception that the ruling parties in the KRG are always trying to minimise the issue; while they admit that corruption exists, they do not consider it to be an issue and they accuse the opposition of exaggerating the matter. In their opinion, corruption is not a big problem, because it exists all around the world and is a common phenomenon in Middle Eastern countries. For example, a PUK politician (interviewee

---

140 Nazaha (“integrity”) is a Commission of the Iraqi Kurdistan Parliament, responsible for pursuing cases of corruption in parliament and combating corruption in general.



38) stated that “corruption is not a phenomenon, as only a minority of people are involved in it”. However, he described corruption as a cancer where even a small spot can be dangerous, and it must therefore be treated as soon as possible. According to the interviewees’ responses, in order to analyse the level of corruption, two different historical periods must be considered separately because of the major political changes that occurred in those periods, namely the period following the Kurdistan uprising in March 1991 and before the liberation process in Iraq in 2003. A majority of the interviewees suggested that, until 2003, although the regional budget was small and no oil was produced in Kurdistan, the level of corruption during that period was very high. The two main political parties were collecting taxes and customs duties and treated this income as their own. These political parties viewed the government as a source of funding for their political interests and for those of their members, in particular those in high positions. A former president of the High Criminal Court (interviewee 10) commented that

political influence is the major reason for the misuse of power in Kurdistan ... In 1991, [the parties] were managing the revenue and they used to pay government for offering them services and work. In those days, there was no transparency and people were not aware of the size of the budget.

Inspecting government documents shows that, until 2003, the public and even ministers were not aware of the size of the budget because it was entirely controlled by the political leaders of the KDP and PUK, who used all the money for themselves and their parties. They decided how much money from the budget should be given to the government (interviewees 3, 10, 27 and 40). Karim (2008) argues that, from the liberation of Iraq until the present day, horizontally, the level of corruption in Kurdistan has decreased in various areas such as education, the judicial system and public offices but, vertically, it has increased. The amount of corruption during this period is very large compared to the period 1991–2003 because the size of the budget increased significantly after the invasion of Iraq and the removal of UN economic sanctions. After 2003, the budget grew and it is now very large, at between US\$10 and 18 billion.

### **Circle of corruption**

The method of recruiting officials into the public sector is very important. Rauch and Evans (2000) investigated the impact of recruitment on the level of corruption in 35 developing countries. They concluded that greater emphasis on the merit-based recruitment system is associated with a higher proportion of higher-level officials in the core economic institutions who have either obtained a university degree or have entered the public sector through an appropriate examination system for recruitment. Controlling for income, this index is negatively associated with the level of corruption.

If recruitment to and promotion within the public institutions is based on impartial assessments of the job-seeker's skills, experience and qualifications, this will increase the amount of "true" knowledge in the decision-making process (Singapore Ministry of Education, 2012). This study shows that democratic elections alone do not guarantee the necessary epistemic qualities for creating decisions that work in the interest of human well-being. However, the QoG can increase the epistemic qualities of a political system that produces public policies that improve human well-being. QoG is causally related to the presence of an impartial method of recruiting officials. If the political regime is a democracy that is keen to practise the principle of merit in the recruitment system, this is more likely to result in epistemic democracy. Because impartial recruitment of officials allows people with high levels of knowledge, experience and skills (instead of those with political influence, family relationships, etc.) to fill the positions in public offices, this of course increases the quality of the decisions taken in public office. In such an environment, a Weberian model of merit-based public service can function as "cages of reason", imputing knowledge-based rationality into the decision-making process as the merit-based system will use better professional knowledge in the process than will a recruiting system based on clientelism and nepotism (Hollyer, 2010).

As mentioned in the previous section, one of the big problems was that, between 1991 and 2005, when the majority of public employees were recruited there were no strict criteria for competition. In Kurdistan, recruiting people to work in the public sector proceeded on the basis of relationships and political influence, not on the basis of qualification and experience. Particularly after the uprising, party leaders rewarded the Peshmerga for their efforts in the mountains by granting them high government positions

for which they were unqualified and lacked any administrative experience (interviewees 1, 10, 27, 28, 30 and 31). Accordingly, as noted by the majority of interviewees, most of the significant posts in the state institutions such as judges, public prosecutors and military and police officers are recruited via political recommendations. This situation, complemented by the conferral of unlimited discretion, gives party members the opportunity to use public office for their own benefit (Pagnamenta, 2009; Jabary and Hira, 2013). In particular, where they have been granted high positions they obey their masters (the heads of the political parties) and act according to their will in order to keep their positions. This is a big problem because it feeds the circle of corruption (Latif, 2010). One human rights academic (interviewee 20) stated:

the highly corrupt people accrued significant wealth by misusing public office and they wanted to invest this wealth and protect themselves; they could protect and invest their wealth by appointing those who are close and loyal to them; this would have fuelled the circle of corruption in Kurdistan.

This was confirmed by Farhad Hussain in his interview with Rudaw TV, when he said:

I do not want to hide from you that we have many prosecution officers who have been appointed for their loyalties to a particular political party; these people have no qualifications, or ten years' experience as required by the regulations. So these people cannot work independently, and they favour the party which appointed them. This situation makes the position of public prosecution even weaker. (Hussain, 2015)

In January 2015, Mr Hussain resigned, protesting at the high level of corruption and the lack of rule of law. He said that, under political influence, the police and the courts did not take corruption seriously, which caused the work of detection and investigation in public prosecution to be worthless, because the police, courts and government did not take action on the outcomes of the prosecution's investigations.

In addition, 65% of interviewees thought that judges were recruited on the basis of political recommendations before 2010, when the Judicial Council was formed. These interviewees referred to this as a symptom and cause of corruption in the region. Despite the recent (2012) reform in the recruitment of the judiciary, one difficult problem is that most judges were recruited, through favouritism, before the new recruitment policies came into force, and that it will be nearly 30 years before those who have already been

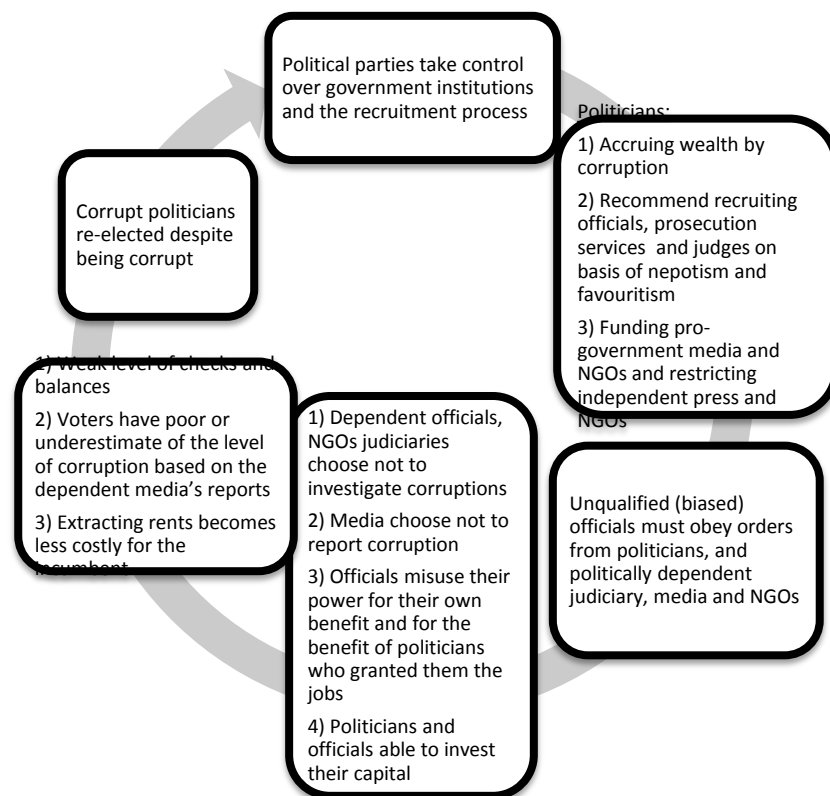
recruited retire and new, independent judges replace them. Judges were recruited because they were members and supporters of the ruling parties, and therefore cannot work independently; no one can sack them because they are backed by the ruling parties. For the same reason, a majority of interviewees thought that even if the opposition came to power, they would not be able to make changes within the judiciary. One GM MP (interviewee 9) argued that the ruling parties recruited judges from among their supporters so they would obey them and work in their interest. The majority of interviewees agreed that reform should be undertaken in the recruitment system for the judiciary. Recruitment must be based on experience and qualifications rather than political views, or the judiciary cannot be independent and free from political interference.

This study also argues that, although recruiting somebody by nepotism may appear to be a single corrupt act, in reality it is not, as it leads to other forms of corruption, when a professional job is granted to someone who is not qualified and cannot do the job properly. This will leave room for further corruption and the circle of corruption will be continued. Furthermore, when unqualified people have been employed they cannot do their jobs as required and will be under the influence of those who gave them the job, and thus more prone to corrupt behaviour because they have to obey those who helped them and will act corruptly in their interests. This extends the chain of corruption (Pagnamenta, 2009).

It has been argued that in Kurdistan politicians accruing wealth through corruption need to create an environment where they can easily conceal corrupt activities and protect their wealth at the same time. To achieve this end, they struggle to monopolise the institutions of governance by recruiting those close to them who obey their orders (interviewees 1, 4, 6, 7, 8, 10, 14, 16 and 19). In addition, the politicians support the dependent pro-government media and penalise the free media in different ways; as a result, the media choose not to report cases of corruption involving officials and politicians, the dependent prosecution service and police choose not to investigate, and politically influenced judges are less willing to take decisions against high-level politicians and officials (interviewees 8, 13 and 20). These tactics lead to weaknesses in the system of checks and balances, since voters underestimate the level of corruption based on the dependent media's misleading reports. Consequently, citizens' lack of true

knowledge about the level of corruption and corrupt politicians results in corrupt politicians being re-elected despite using their powers for private gain. Because of this, corruption becomes less costly for the incumbent, and he chooses a higher level of corruption and the circle of corruption will be continued. The officials become even less professional, and poor skills result in ineffective institutions.

Figure 10: The circle of corruption in Kurdistan





## Chapter 7

### Factors affecting QoG

Scholars have identified several factors as being decisive in the democratisation process and QoG. As it is impossible to examine all of them thoroughly, only those that are most often seen as crucial to the QoG process are explored in this study.

This chapter analyses, both theoretically and empirically, the factors that cause corruption as a symptom of bad governance in Kurdistan. This study tests the hypotheses that have already been discussed in the existing literature, especially with regard to the causes of corruption, to see whether they are applicable in the context of Kurdistan. However, some of the causes outlined seem to fail – at least on their own – to explain the causes of corruption, and the sweeping nature of the explanatory variables appear to rule out their validity to Kurdistan.

In a study by the World Bank on the main causes of corruption in six developing, transition and industrial countries (Guatemala, Tanzania, Kenya, the Philippines, Latvia and Pakistan), the following four factors were acknowledged to be the common causes of corruption as a symptom of bad governance (World Bank, 2004):

1. Those who rule the state ignore the public interest. Citizens of states that recorded high levels of corruption generally lack knowledge of the fact that the state has a duty to protect common public interests. This lack of awareness provides opportunities to politicians to misuse their authority as the boundary between what is public and what is private is not clear;
2. The rule of law is not properly observed by the state. In those states where the law is not equally applicable to all its citizens, those who have influence in authority can easily use public institutions and public resources for personal gain. The most common example of this is when a police officer stops a motorist for a fabricated traffic violation as a pretext for an informal payoff;
3. Institutions that allow citizen participation and accountability are ineffective. Very frequent corruption takes place in countries with weak institutions of public participation in the decision-making process and accountability, as these are unable to control abuses of power by public officials adequately;

4. The commitment of national leaders to establish good governance systems and to fight corruption is weak. Corruption within the public sector becomes prevalent in countries where national leaders are reluctant to or incapable of effectively addressing this matter.

In order to combat corruption effectively and improve QoG, there must be a good understanding of the factors affecting QoG. Why do some countries have poor QoG and why are they more corrupt than others? The existing literature has provided various answers because of the different frameworks employed to study QoG and corruption. However, this study's interviewees mainly ascribed the causes of bad governance to political domination, reliance on oil revenues, the electoral system, conflict and war, culture and the lack of administrative experience. Throughout the investigation, the following appear to be the main factors that affect QoG in Kurdistan:

1. Natural resources (i.e. oil)
2. Culture and social structure
3. Political domination of state institutions
4. Administrative system and quality of government institutions
5. Size of government and (effectively) two government administrations (one KDP and one PUK)
6. Legal system and the rule of law
7. Kurdish disputes with Iraqi central government
8. Lack of a clear, enforceable regional constitution
9. Length of exposure to democracy, level of democracy and their effect on QoG
10. Other factors such as economic issues, trade openness, education, training of public-sector staff

### **Natural Resources**

One of the factors that may have an effect on delivering a constitution in a way that produces a good QoG is the availability of natural resources. How the state obtains revenue (the input) and how it redistributes that revenue (the output) shapes the quality of its governance. For example, countries that collect revenue from agricultural



development have different institutions from those used for their revenue deriving from foreign aid, and different too from industrial countries (Sokoloff and Engerman, 2000, pp.275–6).

A number of studies have also referred to the effects of natural resources on QoG and democracy (Cordesman and Khazai, 2014, p.227; Sokoloff and Engerman, 2000, pp.217–32). The opinion on corruption in oil-rich countries is that ruling elites take advantage of dealing with natural resources for their own benefit, and thus use revenue as a means of staying in power through, for example, vote-buying, clientelism and patronage. For authoritarian regimes, the aim of staying in power is mostly self-enrichment to secure their position and having political influence over others (Sokoloff and Engerman, 2000, pp.217–32). Hence, ruling elites can use the extraction of rent to secure autonomy from the citizenry through corrupt behaviour and they therefore support a low QoG system. Another factor cited as a cause of corruption is that countries that mainly rely on natural resources tend to have large public sectors. This paves the way to more corruption in two ways: first, granting public-sector jobs in return for loyalty and votes, and second, having a large number of public employees in an environment where corruption is a phenomenon can increase the level of corruption (Gillespie, 2006). For these reasons, despite the significant economic effect of natural resources – in particular where the natural resource can be translated into economic growth – scholars agree about some negative effects of natural resources on QoG and the principle of accountability (Cordesman and Khazai, 2014, pp.115–7). When there are massive natural resources in a country, the state potentially extracts most of its revenues without the conditions (imposed by taxpayers) otherwise attached to sources of government income in terms of public demands in return for payment of tax. Rulers therefore have a greater choice of how and what to spend the money on and the government does not automatically need to spend it on economic growth or improving QoG. This is often a scenario related to democracy in oil-rich states (Sokoloff and Engerman, 2000, p.104; Cordesman and Khazai, 2014, pp.115–7).

Anthonsen, Löfgren and Nilsson (2009) studied the effects of natural resources (oil and gas) on QoG and corruption, examining a sample of 139 states between 1984 and 2006. They hypothesised that the greater the revenue dependency on natural resources, the greater the possibilities of policies and systems that would lead to low quality of

government. In addition, they hypothesised that large amounts of rents led to low QoG as well as less impartial judicial systems. Consequently, the judiciary is unable to uphold the principles of the rule of law and impartiality, enabling corruption to flourish.

In oil-rich countries, taxation is not necessary or only constitutes a part of the state's revenue. The government therefore does not depend on collecting tax from its citizens and is reluctant to become accountable to the taxpayers in exchange for their payments, as taxpayers would demand a system that guarantees good behaviour and monitors those who have authority to spend the revenue collected from them.<sup>141</sup> This is because people will not be willing to pay tax if government officials are known to be corrupt. Thus, low levels of corruption and high levels of QoG are related to the source of the government's revenue, in particular taxation (Persson, Rothstein and Teorell, 2010, p.5).

The hypothesis is that states that possess considerable natural resources such as oil and gas do not need to worry about collecting revenue through taxation as they can extract money from the natural resources. On the other hand, where the ruling party can extract rent from oil and gas rather than depending on revenue collected directly from the people through willingness and consent, the ruling elites do not have to sustain their power by using force, but can use their position in government to buy votes from poor people<sup>142</sup> and beat down political opponents (Wright, 2008, pp.322–3). Some writers

---

141 Research shows that taxation should not only be viewed as an administrative system for the authorities to collect revenue. Instead, with taxation usually come three other things. First, a demand, as well as a need, for representation by taxpayers. If people are going to participate in revenue-raising by paying tax, they will demand to be heard not only about the level of taxation but also about how the money is going to be used by the government. Second, a number of scholars have found that, for rulers to extract resources, establishing a good system of citizens' consent to ensure legitimacy is likely to increase the amount of revenue they can collect because, when the state needs to collect tax as a source of income, it has no option but to develop the QoG in order to be able to collect more tax. Consequently, this strengthens the QoG and modernisation of the institutions of governance (Bräutigam, Fjeldstad and Moore, 2008; Levi, 1988). Third, collecting tax also increases demands for accountability and QoG.

142 According to the interviewees, buying votes from people in Kurdistan does not take the form of direct purchasing as you would purchase an item in a shop, but involves exchanging personal favours between individuals and elites through the misuse of power. It could also be in the form of controlling the judiciary, forces of coercion, the media and NGOs and using them to mislead people to the elites' advantage.

describe this as “the resource curse” and hold that the blessed Midas touch has turned out to be a curse in disguise (see, for example, Nilsson, 2008, p.3). Thus, in democratic countries rich in natural resources, the government will be not under stronger scrutiny by citizens because this weakens the government–people relationship and consequently low QoG is more likely. This leads to the presumption that the government’s reliance on natural resources influences QoG irrespective of the quality of democracy in a country. However, some argue that, even in authoritarian regimes with little or no natural resources, where the government relies on collecting revenue from taxation, a better QoG gives the government greater capacity for extracting tax, and even the authoritarian regime may work to improve QoG (Rothstein and Teorell, 2008, p.172). In addition, contrary to what has been found by earlier research, some recent studies argue that dependence on natural resources does not necessarily become a barrier to democratisation (Oskarsson and Ottosen, 2010, pp.1067–83; Haber and Menaldo, 2010, pp.1–26).

### ***Kurdistan: an oil-rich region***

Transparency International noted that the majority of oil-rich countries in the Middle East – including Iraq, Yemen, Iran, Libya and Saudi Arabia – are among the most corrupt countries in the world. The oil-rich countries’ leaderships utilise oil deals for their personal gain (Transparency International, 2004). The Kurdistan Region of Iraq is an oil-rich area, with reserves of nearly 45 billion barrels of oil and more than 110 trillion cubic feet of gas. According to the KRG Ministry of Natural Resources, since June 2015, the region has been extracting and managing its own oil, because the Iraqi government excluded the Kurdistan budget from the national oil revenue. The KRG has oil and gas contracts with some of the biggest energy companies in the world, including ExxonMobil, Gazprom Neft, Dana Gas, Total and Chevron (International Energy Agency, 2012, p.19).<sup>143</sup>

---

143 See also US Energy Information Administration (EIA), “Iraq – Analysis”. Available at [www.eia.gov/country/cab.cfm?fips=IZ](http://www.eia.gov/country/cab.cfm?fips=IZ) [Accessed on 22nd May, 2013] and “PeakOil News” available at <http://peakoil.com/publicpolicy/kurds-oil-deal-with-turkey-endangers-iraqs-budget> [Accessed on 2nd March, 2014]

### ***Legal argument over oil and gas between the KRG and the Iraqi government***

Dealing with natural resources in Kurdistan has been a cause of regular dispute between the KRG and the Iraqi government. Article 111 of the Iraqi Constitution states that “Oil and gas are owned by the people of Iraq in all the regions and governorates”. However, the constitution authorises the respective federal and regional entities to manage their resources. Before the constitution came into force, the KRG entered into a number of oil and gas contracts to address this issue. All natural resources contracts entered into by Kurdistan since 1992 are considered valid under Article 141 of the Iraqi Constitution. However, the constitution kept silent about any future oil deals by the KRG, although they remain guided by the policies and principles envisaged under Article 112(2), which states

The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment.

The constitution, however, determines that petroleum revenue in the KRG would be shared with the central government of Iraq. Since the constitution came into force, the KRG has signed nearly 55 oil contracts with various companies, and the oil flowed through Turkey (KRG website). The Iraqi government is always threatening to take legal action against the KRG and Turkey over Kurdish oil exports, calling this “smuggled” oil. As a reaction, the Kurdistan president, Massoud Barzani, has demanded independence and has repeatedly warned the Iraqi government to use this option if they continue to violate Kurdish constitutional rights, including the right to export oil.<sup>144</sup> The KRG is trying to resolve ongoing budget and oil issues with Baghdad. In negotiations, the KRG agreed that oil revenues from Kurdish-controlled regions would go to a bank account of the Development Fund of Iraq, created at JP Morgan Chase in New York in 2003 at the request of the United Nations, rather than the Turkish state-owned lender Halkbank

---

144 For details see the full interview with Al-Jazeera TV, 30 July 2012. Available at: <http://www.aljazeera.com/indepth/features/2012/07/201272991311907942.html> [Accessed on 30th June, 2013]

144 In January 2014, the then Iraqi prime minister, Nuri al-Maliki, threatened to cut KRG’s share of revenue if it began exports without approval from Baghdad.

(*Hurriyet Daily News*, 2013). However, the KRG has agreed to this only on condition that it is allowed to deduct money from oil exports pertaining to its 17% of the Iraqi state budget, payment for the Peshmerga and dues not paid by Baghdad for foreign oil companies operating in Kurdistan. In the absence of this, the oil revenues would be placed in Halkbank and the KRG would draw the money owed by Baghdad (*Hurriyet Daily News*, 2013).

The central government requires KRG to export 400,000 barrels of oil per day (bpd). In the event of any shortfall in the specified amount, the central government would penalise Kurdistan by deductions from its share of national revenues (Cunningham, 2014).<sup>145</sup> Kurdistan is entitled to collect 17% of Iraqi revenues as part of the revenue-sharing arrangement between the KRG and Baghdad. However, according to the KRG, Kurdistan only received about 8% (\$9.46 bn) of the Iraqi budget in 2013, instead of the \$20.1 billion due.<sup>146</sup> It would only receive \$8.398 billion from annual oil revenues, as the KRG had not yet reached the required level of oil exports (export capacity at the time was around 250,000 bpd) (Rudaw, 2014). According to the Iraqi government, this shortfall had cost Iraq \$9 billion in lost revenue in recent years, and for this they blamed the KRG (Reuters, 2014).

In the absence of a federal hydrocarbons law and the associated creation of a strategic oil policy-making body, in 2007 the KRG drafted an oil-and-gas law to govern the growing oil industry in the region, which was debated and ratified by the Kurdistan parliament (Ridolfo, 2014). The KRG Ministry of Natural Resources (MNR) has been issuing authorisations for access and prospecting, and awarding petroleum contracts either directly or through public competitive bidding.<sup>147</sup> Under Articles 4 and 5 of the Oil and

---

145 The total 2013 Iraqi budget was 138.4 trillion Iraqi dinars (US\$ 118.3 bn). See United Nations Joint Analysis Policy Unit (JAPU), Iraqi Budget 2013 Background Paper. Available at <http://www.iraq-businessnews.com/wp-content/uploads/2013/01/UNAMI-primer-on-Iraq-Budget-2013.pdf>. [Accessed on 12th May, 2014]

147 See “Iraqi Extractive Industries Transparency Initiative (IEITI) Oil Export and Field Development Revenues in 2010”. Available at [http://www.krg.org/uploads/documents/2013/IEITI\\_Iraq\\_2010\\_English\\_Final\\_Report\\_3\\_Mar\\_2013.pdf](http://www.krg.org/uploads/documents/2013/IEITI_Iraq_2010_English_Final_Report_3_Mar_2013.pdf) [Accessed on 11th September, 2013]

Gas Law of 2007 (which governs all activities related to petroleum operations in Kurdistan), the KRG has established a Regional Council for the Oil and Gas Affairs of the Kurdistan Region-Iraq. This body comprises the KRG Prime Minister and Deputy Prime Minister, and the ministers of Natural Resources, Finance and Economy, and Planning.<sup>148</sup> The duties of this council are to formulate the general policy for oil and gas, prospect planning and field development in the region, and any modifications to those principles, limit production levels of oil and gas in the region, and approve and monitor petroleum contracts with companies operating in the region (Article 5). According to the law, the KRG's share must include petroleum sales, royalties, signature and production bonuses related to petroleum contracts with foreign and local companies, profits from petroleum, and the KRG's share of revenue from petroleum operations in the rest of Iraq. Royalties at a rate of 10% are paid in accordance with Articles 37 to 41 of the law. Articles 15 and 16 establish a Kurdistan Oil Trust Organisation (KOTO) and lay down its functions, "regulated by law for the purpose of managing ... revenues and their distribution consistent with the international standards of transparency and responsibility".<sup>149</sup>

Following the KRG's first export oil shipment via Ceyhan Terminal, the Iraqi central oil minister registered a claim in the Federal Supreme Court in Baghdad, requesting the court to take a decision to prevent the KRG from exporting oil independently. In his claim, the Iraqi minister relied on his own interpretation of the constitution to claim that oil and gas matters fell within the exclusive powers of the central government.<sup>150</sup> After

---

148 The text of the Oil and Gas Law of the Kurdistan Region – Iraq, 2007 is available at:

[http://www.krg.org/uploads/documents/Kurdistan%20Oil%20and%20Gas%20Law%20English\\_\\_2007\\_09\\_06\\_h14m0s42.pdf](http://www.krg.org/uploads/documents/Kurdistan%20Oil%20and%20Gas%20Law%20English__2007_09_06_h14m0s42.pdf) [Accessed on 10th March, 2012]

149 Articles 111, 112, and 115 of the Iraqi Constitution 2005 also refer to promoting and adhering to the highest standards of transparency, accountability and fairness in the petroleum sector, and to providing special petroleum revenue allocations for all citizens of the region.

150 Article 93 of the constitution reads: "The Federal Supreme Court shall have jurisdiction over the following:

First: Overseeing the constitutionality of laws and regulations in effect.

Second: Interpreting the provisions of the Constitution.

Third: Settling matters that arise from the application of the federal laws, decisions, regulations, instructions, and procedures issued by the federal authority. The law shall guarantee the right of direct appeal to the Court to the Council of Ministers, those concerned individuals, and others.

making investigations, on 23 June 2014 the court decided unanimously to reject the minister's request as being contrary to the Iraq Constitution.<sup>151</sup> As the decision was issued by the highest court in Iraq, it was legally binding on the Iraqi government. This decision was crucial for Kurds, in that the court interpreted those articles that deal with disputes between the two levels of government and determined that the KRG had the right to administer oil on its lands.<sup>152</sup> Thus, the decision restricted the power of the federal government to prevent oil exports from the Kurdistan Region (MNR official website, n.d.).<sup>153</sup> However, the dispute and tensions between the two have not ended there, and the Iraqi government does not cooperate with the KRG or send the KRG its share of the Iraqi revenue (or it sends less than the agreed amount), because it claims the KRG cannot comply with the agreed supply of 400,000 bpd. These disputes between the KRG and Baghdad were cited by the majority of interviewees as the main factors that have had a negative impact on the process of reform and QoG. Apart from its negative economic impact, the KRG uses this as an excuse for not paying attention to the reform process.

An important related question is how the law and constitution reflect the reality and practice on natural resources in the Kurdistan Region. As an oil-rich area, Kurdistan is not exempt from corruption surrounding oil deals. Contrary to the constitution and the oil-and-gas law, the KDP and PUK sometimes make deals with foreign companies without the knowledge of parliament and the government (Pagnamenta, 2009). Some oil deals are carried out between Kurdish politicians and the foreign oil industry away from the eyes of the public and even the ministry of finance.<sup>154</sup> Most of these deals have been

---

Fourth: Settling disputes that arise between the federal government and the governments of the regions and governorates, municipalities, and local administrations.

151 See: <http://mnr.krg.org/index.php/en/press-releases/385-the-supreme-federal-court-rules-against-iraqi-minister-of-oil-s-request-to-prevent-kr-g-oil-exports> [Accessed on 17th February, 2015]

152 For example, Articles 110 to 115 of the Constitution, which define the exclusive powers of the federal government, and Articles 116 to 119, which define the exclusive powers of the regional governments.

153 For example, Articles 110 to 115 of the Constitution, which define the exclusive powers of the federal government, and Articles 116 to 119, which define the exclusive powers of the regional governments.

154 For instance, on 14 April 2013 Hama-Jaza Hama-Salah, deputy minister for natural resources, resigned in protest at the "lack of transparency within the ministry". For details see "Aland Mahwy Ashty

arranged for the personal benefit of the major politicians in power and their political parties – which is one of the reasons politicians and officials from the US, Europe and neighbouring countries have sought to transform their dealings with Kurdish contacts into personal financial windfalls (Qadir, 2007). In this regard, Sherko Jawdat, head of the Kurdistan parliament's committee on natural resources, told Rudaw News that

There are opportunities now for renegotiation [of oil contracts] but it is not easy because of corruption and we have big battles ahead. ... Just as the Peshmerga are fighting Daesh [Islamic State] on the borders, we are fighting corruption. We have the same role: to create a better Kurdistan.<sup>155</sup>

In relation to transparency in oil deals, an academic (interviewee 5) stated that “oil revenue is a mystery in the KRG system of governance. It is hidden from the eyes of the public, the media and the political parties. I personally think the matter of oil revenue is the biggest flaw in QoG of the KRG”. While the number of deals signed may be known, there are few details about the amount of income from these deals and how it is to be spent. There is a lack of transparency and information about income from oil; the government does not provide the parliament with enough information about oil resources and how this revenue is spent (according to a KIU politician, interviewee 8). When a GM MP (interviewee 18) stated that oil deals were not transparent, he was asked why people in authority were claiming otherwise and believed it to be very transparent. He responded:

I grew up in a village where, when a farmer passed another farmer who was gathering wheat on his land, he would say “God bless your harvest” and “how good is your harvest?” He did not want to know how he planted the wheat or how he watered it. The question is what you did you earn, rather than how did you earn it ... What they put on the website is irrelevant. It is not what people want to know ... it is true that the government publicises the terms and conditions of the oil contracts, but they conceal information about how many barrels have been sold, how much was earned and how this money will be spent.

---

Hawramy to face court”, The Kurdistan Tribune, 13 June 2013. Available at:

<http://kurdistantribune.com/2013/ashty-hawramy-face-court/> [Accessed on 14th September, 2013]

<sup>155</sup> See the full interview at Rudaw News website, <http://rudaw.net/english/kurdistan/131120143> [Accessed on 17th September, 2015]



In answer to the question whether the oil revenue was returned to the central Iraqi authorities, he responded that “not all the money from oil income has been sent to the centre; the ‘oil contract bonus’ is just for the KRG, but where is this money?”

A GM MP (interviewee 2) argued that, according to the Oil and Gas Law, deals must be managed by a committee of five ministers, including the prime minister. However, as with other issues, this is just a theory, and in practice a particular party – or rather a particular family (that of Massoud Barzani, the KDP leader) – managed the oil deals and no one else knew the size of these deals or the money that flowed from them. Furthermore, a KIU MP (interviewee 13) thought that all oil deals were carried out and controlled by the KDP, although in recent years the PUK was also involved. He also expressed the view that there was no transparency in the deals; no one knew who took the revenue or how it would be spent.

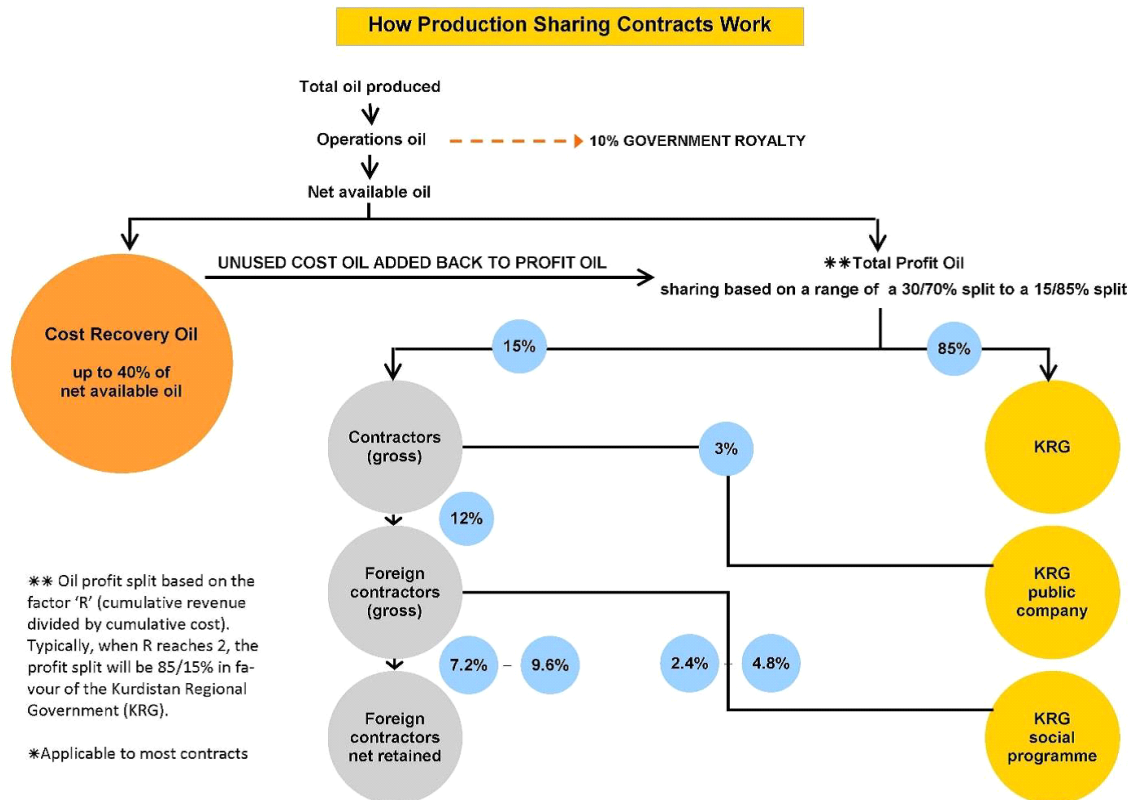
To verify the above statements by various interviewees, independent investigations were undertaken. The official MNR website<sup>156</sup> gives basic information about contracts with more than 55 companies for extracting oil. The website reveals that production increased from 75,000 bpd to 250,000 bpd in February 2011, and that the ministry was aiming to raise production to 1,000,000 bpd (1 mbpd) in 2015 and 2 mbpd by 2019.<sup>157</sup> Under Article 15 of the Kurdistan Law for Oil and Gas, any revenues from oil and gas fields should be transparent and subject to regular independent audit and open to public view for checking. KOTO is required to “discharge its responsibilities consistent with the Principles and Criteria of the Extractive Industries Transparency Initiative (EITI), as set out in the EITI Source Book of March 2005”. In addition, the MNR website refers to 56 oilfields on Kurdistan lands and named the companies with contracts for extracting oil. In the oil-and-gas industry, the Ministry of Natural Resources mainly used “Production Sharing Contracts” (PSCs), a common type of contract signed between the ministry and exploration and production (E&P) companies that defines how much earnings each party will receive. The KRG uses PSCs in which the government’s share is typically close to 90%, as shown in figure 11.

---

<sup>156</sup> <http://mnr.krg.org>

<sup>157</sup> However, even in early 2016 the KRG is struggling to extract the 400,000 bpd required under the agreement with Iraq.

Figure 11: How production sharing contracts (PSCs) work



Source: MNR official website

In addition, the MNR website talks about national and international oil and gas pipelines. This study found that centralised gas-processing facilities are being developed at the Miran gas field. By the 2020s, more than 20 billion cubic metres of gas per year is expected to be sent by pipeline from Kurdistan to Turkey. The website states that gas production is mainly for local needs, but exports to Turkey and other neighbouring markets and beyond will commence once domestic demand is fully met. No details are available about current gas production.

Investigations undertaken for this study did not find any details about revenue from oil and gas deals, confirming what some interviewees considered important, although the MNR website has published the full contract for each deal (each one consists of over 100 pages) and detailed information about the nature of the oil contracts using the Model Production Sharing Contract (PSC), which includes the full terms and conditions.

The Iraqi Extractive Industries Transparency Initiative's report on Iraq's Oil Export and Field Development Revenues for 2010 only referred to the income from less than half of oil deals. Furthermore, there are no details about whether or not the petroleum revenue went to the central Iraqi government (IEITI, 2013). In 2012 the Kurdistan parliament summoned the Prime Minister and the Minister of Natural Resources for questioning on ten occasions but they failed to attend. Some economic commentators suggested that the Kurdistan Region's oil made millionaires or billionaires of dozens of politicians (Karem and Chomani, 2015). Unexplained money and assets owned by high-ranking politicians and government officials in Kurdistan point to some sort of hidden income. Although sources of such income may be legal (such as through inheritance, business deals or gifts), it is likely to be from illegal sources if the owner cannot provide a satisfactory explanation for it (Qadr, 2007, p.235).

In October 2008, an insider trading scandal emerged after shareholders exposed a secret deal between the Norwegian oil firm DNO International and the KRG, which revealed a significant payoff to the KRG's natural resources minister. In September 2009, after conducting an investigation, the Oslo Stock Exchange released details of a \$30 million oil share deal between the KRG and DNO in 2008. However, DNO's actual market valuation of this deal was \$458 million. Norwegian press reports claimed that Ashti Hawrami, the KRG natural resources minister, had acted as an intermediary in the deal and that he personally, or the KRG generally, may have benefited from it financially (Pagnamenta, 2009). The case has remained undecided and the KRG has not made any investigations into the matter.

According to the oil and gas law, a dedicated account should be created for revenue from oil and gas, with the aim of creating transparency in the area of natural resources. However, after five years no such account been created. In addition, the KRG was entitled to a capacity-building bonus from the international field development oil companies operating in the Kurdistan Region; although the 2010 report referred to some of these bonuses, no information was given in relation to the majority of the deals.

A study of the oil deals in the Kurdistan Region explains why most of the MPs interviewed view the issue with suspicion. For example, a GM MP (interviewee 18) claimed that what little budget detail that had been revealed to the parliament by the

KRG showed that, in 2010, the earnings of the Ministry of Religion and Faith were 28 times greater than those of the Ministry of Natural Resources (the former is not a productive ministry and one should not expect them to have such earnings). The MP continued

In 2013 the Ministry of Natural Resources claimed that it earned only 57 million Iraqi dinars, which is less than six months' wages for a single MP. The ministry exports 200–250,000 barrels of oil every single day, so the question is: where is the income? This is a clear case of corruption.

According to the interviewees, until 2013 only a small proportion of oil revenue was returned to the central Iraqi government. By a simple analysis of what has been admitted by the MNR about oil exports, the following conclusions can be reached:

250,000 (bpd at the end of 2014) x \$100 (price per barrel) = \$25 million per day  
365 (days in the year) x \$25 million = \$9.125 billion per year.

Interviewee 20, an academic, argued that “this money is disappearing, not given to the people of Kurdistan and not returned to the central Iraqi government, so where does it go? It is a puzzle no one can solve”. The total value of oil deals is estimated at about \$4–6 billion each year. From all these large oil deals, in 2012 a figure of only \$250,000 was disclosed to parliament. Some commentators believe that most of these oil deals were conducted by the political parties and that even the Minister of Natural Resources was not aware of some of them (U4, 2015).

### **Culture and Social Structure**

In any country, the system of governance is an indirect reflection of what its citizens believe. In particular, there is an obvious relationship between people's culture and beliefs and the level of democracy and QoG (Rose-Ackerman, 2010). For example, people demand more public services and more freedom only when there is incongruence between the current QoG and wanting a better one. A political regime can therefore ensure stability and security when it reflects its people's belief in the power it maintains. Thus, there is a strong relationship between political culture and QoG, and the capability

of a democratic system to meet its citizens' demands is similarly believed to promote the democratisation process and improve QoG.

Almond and Verba (1963, p.12) referred to political culture as “the specifically political orientations – attitudes toward the political system and its various parts, and attitudes toward the role of the self in the system”. With regard to the democratisation process, Almond and Verba referred to three types of political culture, namely parochial, subject and participant (ibid). In the parochial culture, citizens only have a basic knowledge of the political system and do not interfere in the process; in the subject culture, citizens view themselves as subjects of a political system; and in the participant culture, citizens regard themselves as owners of and true participants in the system. Democracy can achieve its true aims of improving QoG only in participant cultures where citizens actively participate in the decision-making process and support the government. However, the parochial and subject cultures can help to keep the participating citizens loyal to the political system regardless of whether it works in the public interest. Therefore, too much of a subject culture would lead to an authoritarian system (Pipes, 1989, pp.23–7). In this section, an attempt is made to determine the type of political culture that exists in Kurdistan society and what impact it has on QoG and democracy.

Some scholars have a different opinion. For instance, Muller and Seligson (1994, pp.635–52) argue that democracies are better off providing civic culture and not the other way around. However, this study rather agrees with the opinion of Diamond, Linz and Lipset (1995, pp.7–9), who argue that there are interrelationships between democracy and political culture. Democracies may foster democratic social and political attitudes, and democratic social and political attitudes will foster democracies.

Cultural orientations may well contribute to a pluralist civil society that can check and balance the political system, and accordingly positively affect QoG. For example, the role of politically oriented civil society was clearly significant in the third wave of democratisation, where civil society movements in many states had a great impact on the liberalisation and transition of the regime towards establishing a good governance system in the state (Linz and Stepan, 1996, pp.3–5).

The implementation of the constitution in any society cannot start from scratch, but can be structured upon existing government institutions and the available political system which mostly reflect the culture of the society. It is therefore unarguable that institutional traditions can map the path towards democratisation and the tasks different countries face when undergoing the process of democratisation (Charron, Dahlström and Lapuente, 2010, p.25). Institutional tradition includes the legacy of former regimes, socio-economic development and state–civil society heritage. These factors can shape any future political system in the state (Huntington, 1968). When a regime collapses and a new one is established, the structure of the political system is up for the taking. However, the legacy of the former regime remains.

Some researchers believe that long-predetermined historical and cultural characteristics appear to have a significant impact on state institutions, so it is not just government policy that matters. Therefore, political culture and social life structure cannot be disconnected from the culture of that society (Stulz and Williamson, 2003, pp.313–49; Treisman, 2000, pp.404–6). Many interviewees confirmed these statements. For example, a former Iraqi minister (interviewee 36) suggested that

As Kurds, we were under a dictatorship for nearly a hundred years, and were not familiar with democracy; we had a culture of revolution, fighting, revenge and political domination. It is not very easy to remove this culture like a T-shirt and wear democracy instead. We need time and effort to establish a democratic society and a democratic regime.

A high-level PUK politician (interviewee 3) agreed that the root cause of corruption is related to the culture of corruption that accumulated throughout the 35-year rule of the region by the former regime of Saddam, when the Ba’ath party utilised the entire administrative system and Iraqi revenue to maintain its power and the state lacked transparency, accountability and a monitoring system.

An academic (interviewee 1) also argued that democracy must be derived from society and develop in that society. He explained why it is difficult for the democratic principles mentioned in the constitutions to be implemented in Kurdistan, stating that:

One of the main problems is that there is no culture of democracy rooted in society. In the aftermath of the revolution, besides the legitimacy they get

from elections, the revolutionary parties consider themselves as having revolutionary legitimacy to rule the state. They consider themselves owners of the new circumstances and they expect to be rewarded for their efforts. Therefore, they do not value the democratic principles that require the authority to be from the people and for the people.

On the other hand, societal tolerance of corruption in Kurdistan is considered to be one of the factors causing or sustaining low QoG. In particular, corruption is regarded as a form of influence arising from people's tolerance as well as the failure of institutions (interviewee 31). One theorist of the societal tolerance factor holds that corruption exists in a situation where wrongdoing and inequality become the norm and an acceptable standard of behaviour is necessary to accomplish organisational goals (Huntington, 1968). However, one should bear in mind that culture can explain only a certain part of the corruption, and there remains sufficient room for improvement by the governmental and non-governmental anti-corruption organisations (Husted, 1999, pp.339–59).

In Kurdistan, there is a culture of having no correct criteria for employment competition; recruiting people to work in the public sector proceeds on the basis of relationships and political influence, not qualifications and experience (Pagnamenta, 2009). After the Kurdish uprising in 1991 and the establishment of the first Kurdish government, those who came to power presided over a regime that was a mixture of the former culture of Saddam Hussein's regime – which was the culture of interfering in the government's affairs – and their own rebellious mountain culture (Latif, 2010). The causes of corruption in certain societies cannot be disconnected from the culture of that society. Most of the ruling-party politicians and MPs interviewed shared a common perception that the causes of corruption are linked to the culture of Kurdistan. For example, one KDP politician (interviewee 29) stated that

Another cause of corruption is political influence, which again relates to culture. For example, if a member of a political party has been arrested for corruption, my party tries to release him before he is taken to court, because they think it might bring shame on the party.

Thus, this study argues that the culture of Kurdish society is closer to the subject culture, where citizens view themselves as subjects of the political system.

On the other hand, Kurdistan, as a traditional society, is known for strong relationships and having loyalty to one's political party or tribe. These close relationships have a significant effect on public institutions, as "networks need friends in influential positions in order to manoeuvre payoffs, to attain favour in accordance with one's interests" (Sidiq, p.5). When someone achieves a high position of authority, his relatives and friends expect him to treat them differently from other people and they ask for favours; by providing these favours, the official can secure their loyalty. These people feel proud of such corrupt behaviour, and even call these bad habits "good character", "good deed" or "help" (a former Iraqi minister, interviewee 36).

A KIG politician (interviewee 41) argued that there was a need to change the Kurdish social framework from a tribal society to one in which individuals must be created on the basis of citizenship and of giving consideration to society. Interviewees proposed various methods for how Kurds could change the culture of corruption in society. These included:

1. Spreading public awareness and educating people through civil society organisations, the education system and the media;
2. Providing mandatory courses about ethical practice for officials;
3. Practising very strict disciplinary policies and procedures in public office; and
4. Reducing human greed by spreading moral values and religious spirit in individuals.

However, one fact that this study emphasises is that *changing* culture is a difficult and lengthy business, as stated by a KDP MP (interviewee 33): "...we cannot change the culture of society in days – it takes time".

### **Administrative System and the Quality of Government Institutions**

As already mentioned, it has been argued that the lower the QoG, the higher the level of corruption; government administrations that grant large amounts of discretion to their officials will experience higher levels of corruption. As officials have the authority to deviate from regulations and policies, they are able to misuse power for their personal benefit. QoG is a subjective measurement of the quality of the institutional structure,



which includes the opportunities for misusing power, the probability of getting caught, and the severity of the punishment (Gupta, Davoodi and Tiongson, 2000).

The World Bank's World Governance Indicators (WGI) are regarded as a trustworthy measure of the concept of public management (World Bank, n.d.).<sup>158</sup> The ranking scale is 0% for bad performance and 100% for maximum good performance. According to such measures, the following rankings were given to Iraq (Kurdistan included) for 2010–14:

- voice and accountability 12–17%
- political stability and absence of violence and terrorism 2–5%
- government effectiveness 9–13%
- regulatory burden 9–16%
- rule of law 2–6%
- control of corruption 4–7%

Generally, these ranks are similar over the last ten years. This means that Iraq (including Kurdistan)<sup>159</sup> is considered one of the 20 worst countries in the world for system of governance. According to the interviewees, the main reason for this is that the allocation and use of public resources is mainly controlled by the ruling political parties and is not always exercised lawfully or in the interest of the people. One academic (interviewee 6) suggested that favouritism and patronage led to incompetent people being employed in the public sector and state institutions, which had led to poor public management.

A GM MP (interviewee 18) argued that

There is political domination, there is interference between the state institutions and the political parties; their work is mixed up, and it is

---

158 Available at <http://data.worldbank.org/data-catalog/worldwide-governance-indicators> [Accessed on 22nd September, 2015]. See footnote 113 for details of how rankings are calculated.

159 As Kurdistan is not an independent state, in their reports the international organisations consider it as part of Iraq. The international reports collect their data equally from all cities in Iraq, including those in the Kurdistan region.

difficult to distinguish between the government and the ruling parties ... the two parties spend public money for their party with no limitations.

This allegation was confirmed by most interviewees. Improper public management and dishonest activities in various institutions undermined the legitimacy of the government and the reliability of democracy.

The quality of institutions may explain why corruption is more common in some countries than in others. But what qualities does one have to look at when one aims to understand varying levels of corruption in public institutions? The critics of modernisation provided an answer by falling back on Weber's notion of bureaucratic institutions. Weber defined a "bureaucratic agency" as a hierarchical organisation that meets six criteria; this study summarises them into the following three criteria (Kilcullen, 2006).

1. Prior to the establishment of any administrative institution, it should have clear goal formulation and rules governing its operations. Moreover, for the implementation of this mandate, strict rules and regulations apply on how each individual official is expected to act;
2. There should be control and audit mechanisms; external controls and audits carried out by other bureaucratic agencies enforce compliance with both goals and rules of implementation;
3. Strict separation between public office and private interests.

It has been argued that public institutions that fail to meet all three criteria or fail to meet them sufficiently are prone to corruption. This study examines the bureaucracy in Kurdistan vis-à-vis these criteria.

In relation to the first criterion, most interviewees agreed the KRG's aims, policies and regulations are outlined and published by the website [www.krg.gov](http://www.krg.gov). However, its aims and plans are not clear or practicable. In modern democratic countries, the government's plans and goals are short-term, specific, measurable, attainable, realistic and time-sensitive (SMART). But as a result of failings in government institutions in Kurdistan, the KRG's plans are long-term, unspecific and not measurable. This means that, when

the government attempts to fulfil its plans, it cannot achieve them because they are long-term but it wants to apply them within four years; this is impossible, because the KRG's plans and promises cannot be achieved even in 50 years (Sidiq, 2011).

In addition, the governance system in the Kurdistan Region is tightly controlled by its weak and flexible legal system, which is always dominated by the main political parties, who control and misuse it for their own interests (interviewees 2, 4, 6, 9, 10, 12, 13, 15, 16, 19, 26, 27, 28, 30, 35, 36, 40 and 41). The ruling parties created an environment which enabled different forms of corruption to take place, ranging from corruption in the oil industry, tax, customs and the bureaucracy to favouritism and patronage. The two ruling parties were able to misuse their position in order to stay in power and maintain wealth. A KIU MP (interviewee 13) stated that important institutions such as the parliament and the judiciary do not have real authority, rather they work under the control of the executive and the politicians. This allows corrupt people to move freely.

Some interviewees described the Kurdistan Region's institutions as old and unresponsive. For example, a GM MP (interviewee no 2) stated that "The main cause of corruption, I believe, is the system of governance in the region, which is very old, and cannot cope with modernisation and new technology". Further, according to a former minister (interviewee 36), the biggest current problem for the Kurdistan government today was the low quality of government institutions and defects in the administrative structure. He said that the current institutions were outdated, as they were established in a different time and for a different type of society. The administrative structure currently operating was formed in the 1940s. It was created for a particular historical period, when government was small, the budget was limited, and government projects were very simple. Moreover, only a small amount of money came under the control of government officials. Since 2011 the annual budget of the Iraqi government has been over US\$110 billion, of which the Kurdistan government gets 17% – this is a large amount compared to 30–70 years ago when the annual budget was between \$20 and 40 billion (Savage, 2013). The increased budget cannot be administered and controlled by an administrative structure designed for the administration of a smaller budget. For these reasons, this study argues that one of the faults in the current KRG administrative system is the outdated structure of institutions.

Another cause of defects in governance in the Kurdistan Region relates to the traditional system of administration, such as documents and routine procedures. These unreliable methods give politicians and officials opportunities to misuse their power for their own benefit, giving them room for manoeuvre. A KDP MP (interviewee 39) considered over-bureaucracy as another failing in the institutions of governance, stating that “the bureaucracy and routine can cause corruption, so we must reduce bureaucracy”. A KIU politician (interviewee 14) agreed that corruption related to the set-up of administrative institutions and the way they performed: overly bureaucratic and full of red tape. In his opinion, these defects made it difficult for work to be processed normally, meaning that people had no option other than to get round it by paying a bribe or using family and political influence (through those in high positions) to convince officials to get the job done.

Modern technology such as an electronic government system and mobile phones can be used to improve public-sector management and to reduce the misuse of power. An academic (interviewee 31) stated that, “In modern states technology has helped the government and the state to uncover criminal activity and misuse of power”. For these reasons, some interviewees suggested establishing a system of electronic government, for which purpose the government should use modern technology (computers, the Internet and CCTV) in its day-to-day work and to combat corruption (KDP MP, interviewee 34).

In relation to the second criterion, the majority of interviewees deemed that the lack of active anti-corruption institutions and an auditing system in the Kurdistan Region were a significant cause of corruption. It should be noted that neither the Iraqi Board of Supreme Audit<sup>160</sup> nor the Integrity Commission<sup>161</sup> has any control over Kurdistan.

---

160 The Board of Supreme Audit was established on 31 January 2004 by the Iraqi Governing Council. It is an independent public institution established to enhance the economy, efficiency, effectiveness and credibility of the Iraqi government. It works in conjunction with the Commission of Integrity (CoI) (formerly known as Commission on Public Integrity (CPI)) and Inspectors General of individual ministries to ensure integrity, transparency and accountability within Iraqi government institutions. Available at <http://www.iraqcoalition.org/regulations/> [accessed 15 February 2014]

161 The 2005 Iraqi constitution considers the CPI an independent commission, subject to monitoring by the Parliament (Article 102).

Although similar institutions exist in the region, they are not active. A KIG politician (interviewee 15) stated that the integrity committee and the monitoring council, which are supposed to monitor the government's work, cannot play their roles because they are not independent. The lack of accountability and absence of active monitoring institutions to observe the government's activities in Kurdistan may explain the poor quality of government institutions. The Iraqi Commission of Integrity (CoI) is more active than the monitoring committee in Kurdistan. In 2010, the Iraqi CoI formally accused 7,000 officials of involvement in corruption; 2,523 were put on trial, of whom 193 held the position of director-general or higher. The court convicted 709 people. However, in Kurdistan only a few officials have so far been tried for corruption, and these were only people in lower positions.<sup>162</sup>

Dr Rafiq, appointed head of the Integrity (Nazaha) Committee in the Kurdistan Parliament in 2010, resigned a year after its formation. Asked in a press conference about the reasons behind his resignation, he said

the commission had died and the best thing for a dead body is to make respectful funeral arrangements for it. A few weeks after that, most of the other members of the committee resigned (six out of ten), so the committee was dissolved without conducting any activities.<sup>163</sup>

A KIG politician (interviewee 15) suggested that fighting corruption requires constant observation of government institutions by parliament, but parliament always ignores reports from the Integrity Commission. In addition, the politician felt the public prosecution services must become independent, and must be given more power in order to enable them to track down the misuse of power in state institutions.

---

162 Radhi al-Radhi, head of Iraq CoI. Cited in International Crisis Group "Failing Oversight: Iraq's Unchecked Government" Middle East Report N°113, 26 September 2011. Available at: <http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/113%20-%20Failing%20Oversight%20-%20Iraqs%20Unchecked%20Government.pdf> [Accessed on 10th December, 2013]

163 Dana Salih, "There is no an active institution for investigating cases of corruption", 17 February 2012. Available at: <http://sorani.irib.ir/2011-03-09-19-07-21/item/126336-taeista-le-eerimi-%E2%8A%B7kurdistan-dezgaie-%E2%8A%B7kara-niie-bo-lipicinewe-le-dosie-%E2%8A%B7ani-gendeli?tmpl=component> [Accessed on 9th November, 2013]

The director-general of the financial audit office in Sulaimaniyah said that

Most cases of corruption are organised, making it very difficult to combat. The committee had no president for nearly two years. In the last three years, the Sulaimaniyah office has reported 2,700 cases of corruption to parliament, but the Speaker did not submit a single report to parliament for discussion; he simply ignored the reports.<sup>164</sup>

Such issues with the auditing and monitoring system were considered by the majority of interviewees to be one of the main causes of corruption in Kurdistan.<sup>165</sup> This may explain why politicians' accountability for their actions in the Kurdistan Region is rather weak. As there have been many political scandals in Kurdistan, one can only conclude that opportunities for corruption are fairly abundant due to insufficient integrity and auditing systems and the absence of the rule of law.

With regard to the third of Weber's criteria for bureaucratic institutions (separation between public office and private interests), other writers have shown that separation of powers between parliament, government and judicial systems makes it less likely that officials or politicians are able to combine and form factions contrary to the public interest (Rose-Ackerman, 1999, p.151; Bradley and Ewing, 2011, p.198; Barnett, 2013, p.86). They viewed the separation of powers as an absolute requirement for constitutional government, where sovereignty and authority would be used only for the purposes for which the government was established by the people in the first place, such as the public interest and the protection of individual rights (Waisman, 2008). An MP from GM (interviewee 18) argued that the main problem was that the KRG was unable to separate the three authorities completely. Furthermore, he stated that there was interference between the state institutions and the political parties, their activities were mixed up, and it was difficult to distinguish between the government and the ruling

---

164 KNN.net, 11 September 2013. Available: at <http://knnc.net/Detail-11038-4-False#.Un7Mm1yyYhA> [Accessed on 15th September, 2013]

165 However, the ruling parties always claim that the government is accountable. For example, a KDP MP (interviewee 34) recalled her personal experience in parliament, saying "from the last four years as an MP, I have seen various officials being invited to the parliament. We questioned them freely, every MP was given the chance to ask questions and the official responded frankly. In addition, all the government offices have their doors open for MPs to go and investigate any issues they have doubts about."

parties. For example, the two ruling parties spent public funds for their political interests without limitation. The level of implementing and practising the principle of separation of powers in Kurdistan is very low. A judge of the High Criminal court (interviewee 7) pointed out that parliament, the government and the judiciary had to some extent been paralysed by the powerful political parties. He added that the government worked under the control and influence of the ruling parties. For these reasons, officials or politicians could easily combine and form a faction for their own benefit, contrary to the public interest.

It has also been argued that wide discretionary powers, coupled with the lack of accountability, give officials a major opportunity to misuse their public office for private interest and gain. There was no strict separation between public office and private interest. This was particularly evident where politicians and members of the cabinet held portfolios or intervened in policies in which they had a strong private interest. The politicisation of public-sector appointments within the state administration also aided the systematic abuse of public office for the benefit of private interests; in some instances, it was even impossible to draw a distinction between the state and the private sector.<sup>166</sup>

For the above reasons, it could be concluded that Kurdistan failed to meet the three criteria of bureaucratic organisation discussed, or at least did not meet them to the required level, and is therefore more prone to corruption.

### **Size of Government and Two Administrations**

The data about the effect of the size of government on corruption is ambiguous. Some researchers argue that there is no relationship between government size – measured as government consumption as a share of total GDP – and corruption. It has been said that the size of government differs from one state to another, and to some extent this

---

<sup>166</sup> For example, in 2013 the current KRG Prime Minister, Nechirvan Idris Barzani, spent IQD 850,000,000 (about GBP 485,000 at the time) on the door of his palace. When asked about this in an interview on Rudaw TV, he did not deny the fact, but stated that the palace did not belong to him personally but to his political party, and he sometimes used the palace for government meetings. [http://northkurdistan.blogspot.co.uk/2013\\_08\\_01\\_archive.html](http://northkurdistan.blogspot.co.uk/2013_08_01_archive.html) [Accessed on 2nd April, 2014; blog since removed]

argument remains unchanged over time (Husted, 1999, pp.339–59). Other researchers have found that the size of the public sector and the government budget relative to GDP does affect levels of corruption<sup>167</sup> (Fisman and Gatti, 2002; Treisman, 1999).

The large size of the public sector in Kurdistan and the sudden increase in government budget relative to GDP did have a negative effect on QoG (interviewee 7, 10 and 30). However, to determine whether the Kurdistan Region has a bigger government and whether that affects its QoG, this study notes that the size of a government should be measured by the number of public-sector employees relative to the size of the overall population. The number of workers in the public sector in Kurdistan is huge; according to government information, 700,000 people work in the public sector, out of a total population of nearly 5,000,000 (Karim, 2008). A former Iraqi minister (interviewee 27) argued that

the large number of public-sector staff and government organisations can be considered a cause of corruption in Kurdistan – in particular where there is no real need for them, because, in addition to getting wages from public funds, employing too many officials in a corrupt environment only increases the level of corruption.

Where the public sector is expanded, the government will be more vulnerable and may lose control, especially in the absence of effective management and modern administrative systems. As a result, corrupt officials may take advantage of public office for their private gain. Building on this, a judge of the High Criminal Court (interviewee 7) said: “The size of government in any state can increase the level of corruption, particularly in Kurdistan, which already has corruption problems, because having too many unnecessary employees and institutions means having too much room for corruption”.

---

167 Researchers have also confirmed that per capita GDP is one of the most significant factors affecting the success of democracy. In particular, when per capita income rises above \$6,055, democracy is able overcome obstacles to its progress (Maravall and Przeworski, 2003). According to cross-country regressions, GDP is one of the most important economic determinants of corruption (Paldam, 2002). Corruption decreases when the economy develops, as reflected in GDP per capita (ibid.).



In addition, the outcome of the internal fighting in Kurdistan between 1994 and 1997 left the KDP in control of Duhuk and Erbil (the two biggest cities) and the surrounding areas, while the PUK controlled Sulaimaniyah and its surrounding areas. This resulted in the establishment of two regional governments by the PUK and the KDP. An MP from GM (interviewee 18) also considered the existence of two administration systems as a cause of corruption. Mustafa (2010, p.3) argues that “the KDP and PUK are keen to have two different administrations in order to hide their corrupt actions more easily”.

The above was confirmed by a KIG politician (interviewee 40), who stated that

the internal conflict and fighting between the two main political parties in the 1990s led to the division of Kurdistan into two parts ... Each of the parties became the only powerful party in its region and governed it as a single ruling party with no opposition for many years, even now.

This allowed high-ranking officials and politicians from each region easily to misuse their power for their own benefit and to avoid any questioning or penalties, in particular where – due to the internal conflicts – the courts had become weak and dependent on the ruling party, and the police and security forces were under their direct control. During that period, the KDP and PUK were able to recruit people into the public service entirely from among their members and their families. They also managed to monopolise the market and trade, and amass huge wealth through corruption and secure ways of investing their wealth and maintaining their authority for even longer (KIG MP, interviewee 40).

After the general election of 2005, the KRG formed its cabinet, which consisted of 33 ministries under the leadership of the Prime Minister, Nechervan Barzani (KDP). The Kurdish political parties attempted to build a better administrative system, the two main parties managed to merge most ministries into one regional government, and established a mechanism for sharing out the ministries and high-ranking public positions between them, while sharing some positions with the Islamic parties (Munro Robb, 2010). However, the two parties could not completely unify both cabinets due to conflict over revenue-sharing (from oil, taxes and tariffs) and disputes over who should hold the ministries of Peshmerga, finance and interior. In theory there is only one government and one administration in the region, but the reality is

different; there are two different administrations in the region (Munro Robb, 2010). Thus, until September 2014 the ministries of finance and of Peshmerga were operated separately by the PUK in Sulaimaniyah and by the KDP in Erbil. In an interview with Awene news, Atta Sarawi, a member of the PUK Central Council, admitted that bodies such as the police, security and military forces and all government institutions and ministries were, in practice, divided. He added, “You cannot see a PUK member being appointed as a director in the yellow zone [KDP area], and you cannot see a single KDP member appointed as a director in the green zone [PUK area]”.<sup>168</sup>

### **Legal System and the Rule of Law**

The type and effectiveness of the legal system operating in a country is an important factor when considering QoG. Apart from ethical considerations, an official’s decision on whether to act honestly or corruptly depends on the anticipated cost to him of the decision. In this respect, two factors should be considered: first, the probability of being caught and convicted, and second, and the size of the penalty (Treisman, 2000). Hobbes (1651, p.168), the famous political philosopher, said, “A man’s conscience and his judgment is the same thing; and as the judgment, so also the conscience, may be erroneous”. The state cannot rely on the inner morals of individuals alone to guide them to act honestly and prevent them from conducting corrupt behaviour or committing other offences; there must be something out of their control that creates this kind of good motivation inside them, in particular to deter them from criminal behaviour (Brunetti and Weder, 2003, pp.1801–24).

The majority of interviewees believed that a lack of punitive measures in Kurdistan was another failing in the legal system, as there are no punitive measures to deter people from conducting corrupt activities or to ensure transparency and accountability through an effective justice system. Party members and high-ranking officials simply behave corruptly because they can get away with it and they can go about their business free from fear of prosecution (interviewees 2, 6, 7, 10, 12, 13, 15, 19, 25, 27 and 35). There are no active legal monitoring bodies to check the government’s work stage by stage from planning to execution and completion. A former president of the Court of Appeal

---

168 Available at: <http://www.awene.com/article/2013/09/06/25340> [Accessed on 7th December, 2013]

(interviewee 10) considered the defects with the legal system, absence of the rule of law and failure to implement the law as the main causes of corruption in the Kurdistan Region. Some scholars argue that the stronger the legal system that can uphold the rule of law in a state, the lower the level of corruption (Gupta, Davoodi and Tiongson, 2000). They agree that if the rule of law means that the government must act according to laws and regulations, all people would be equal before the law, be they citizens or elected officials. The absence of the rule of law could generally be considered as the main cause – as well as the source – of corruption in Kurdistan because arbitrary practices by the government are not discouraged. A government official (interviewee 16) said

In my opinion, one of the main causes of corruption in Kurdistan is the absence of the rule of law and the lack of implementation of the law and regulations. These conditions allow the politicians and officials to utilise the state institutions for their own benefit.

In particular, in Kurdistan there is excessive control of power by the ruling parties and their loyal members, which allows them to easily utilise government institutions for personal and political purposes (Madigan, 2005).

### ***The judiciary***

There is increasing acknowledgement that an independent judiciary is necessary to achieve the rule of law in a state, and this can ensure that citizens feel there is an adequate and effective legal system that is able to guarantee impartial and fair trials equally for all (Kelly, 1996). The main role of an independent judiciary is to provide an environment in which the rule of law can be upheld and the rights of citizens equally protected.<sup>169</sup> However, for the judiciary to act independently and impartially, it must have special powers to allow it to perform its duties free from any political or governmental influence. In countries with written/codified constitutions, one of the fundamental roles of judges in addition to interpreting legislation is the interpretation of the constitution itself, which allows judges to arbitrate in disputes between government institutions and citizens (Kelly, 1996). From this point of view, it is reasonable to

---

<sup>169</sup> The great philosophers, such as John Locke and Montesquieu, have had major influence on the evolution of the modern concept of judicial independence. For example, Locke argued that the established laws with the right to appeal to independent judges are fundamental to a civil society.

suggest that the judiciary is one of the most significant institutions for implementation of the constitution and the law.

The structure of the Kurdistan Region's courts and judicial system is similar to that of the Iraqi judicial system: it is not independent, but under the influence of government and the ruling parties, even though the courts operate in the name of the people of Kurdistan and all people are supposed to be equal before the court. Courts apply the pre-1991 existing laws of Iraq unless subsequently amended or repealed by the Kurdistan Parliament. Apart from laws that come under the exclusive powers of the federal government as listed in Article 110<sup>170</sup> of the Iraqi constitution of 2005, since 1992 any new laws and amendments to existing law are not recognised and not applicable in the Kurdistan Region unless expressly endorsed by the Kurdistan Parliament (Global Justice Project, 2009). The laws and regulations in Kurdistan are good and there is no significant problem with the texts; rather, the problem is with their implementation (GM MP, interviewee 26).<sup>171</sup> The courts can play an important role if they are independent

---

170 Article 110 of the Iraqi Constitution 2005:

The federal government shall have exclusive authorities in the following matters: First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade

policy. Second: Formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq.

Third: Formulating fiscal and customs policy; issuing currency; regulating commercial policy across regional and governorate boundaries in Iraq; drawing up the national budget of the State; formulating monetary policy; and establishing and administering a central bank. Fourth: Regulating standards, weights, and measures. Fifth: Regulating issues of citizenship, naturalization, residency, and the right to apply for political asylum. Sixth: Regulating the policies of broadcast frequencies and mail. Seventh: Drawing up the general and investment budget bill. Eighth: Planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with international laws and conventions. Ninth: General population statistics and census.

171 However, some interviewees (7, 13 and 18) referred to defects in the law and constitution, and considered these as obstacles to the course of justice. For example, several of them criticised the constitutional power of the president of the KRG for issuing a general amnesty or special pardon for criminal prisoners to be released (or sentences to be mitigated) without reasonable basis. This special power of the president may reduce the dignity of the courts. On the other hand, some politicians, such as ministers and MPs, have been granted immunity by constitutional means, meaning that the courts cannot

and free from interference from politicians and the government (interviewee 31).

Forming an independent model of judicial institutions, powerful and free from political interference, can therefore be identified as a major priority for the Kurdistan Region in the process of reform and improving QoG. The judiciary can hold other branches of government accountable for their actions and, in this way, act as a monitoring body on the work of the state and its institutions.

Judicial independence may take various forms in different legal systems. But the aim remains the same: to provide an environment in which judges will be free and have power to make impartial decisions based on the law and the merit of each case, and to exercise their role as protectors of the constitution, without any influence or interference from other sources, especially politicians and government officials. This basic principle is significant to the maintenance of the rule of law (Préfontaine and Lee, 1998).

Furthermore, according to Reporters Without Borders (2010), if the KRG means to build a democratic society there must be an independent judiciary to handle challenges to it through appropriate court proceedings to be able to sustain justice and carry out its duty in protecting human rights and liberties. Beginning to reform or creating a new model of judicial institutions is therefore often identified as a major priority for any democratic state that works for an active judiciary to hold other branches of government accountable for their actions. Accordingly, the judiciary is able to work as a significant monitoring body on the activities of government institutions, as explained in Chapter 8. However, the judiciary can undertake this noble role only when it is independent and effective and possesses the power to enforce its decisions (World Bank, 1997). The question this study should answer is, therefore, whether the judiciary in Kurdistan is independent and effective and possesses the necessary power to play its role in implementing the constitution and law and consequently improving accountability and QoG.

In the early 1990s, the judicial system in Kurdistan was in its very early stages.

Alongside normal state courts, five parallel courts existed in Kurdistan: state security

---

summon them; –the courts must request the prime minister or parliament to withdraw immunity before taking action against these people. Where the legal system and public policy do not impose sanctions on parliamentarians and government personnel who have violated their public duties, there will be more opportunity for corrupt behaviour (Madigan, 2005).

courts for trying political offences, separate PUK and KDP party courts known as “social courts”, military courts with jurisdiction over Peshmerga forces, and special tribal courts with jurisdiction over some tribe members. Their judgments were unpredictable and often contradicted the law (Qadr, 2007, p.134). However, the majority of interviewees felt that the judicial system started to improve in 1997, but they criticised the courts for a number of reasons: for being politically influenced; problems in the recruitment of judges and public prosecutors; and for not being as effective as they should be in a democratic society.

In the process of judicial reform, the KRG has encouraged many initiatives to develop the rule of law and ensure an environment of peaceful coexistence and stability throughout the Kurdistan Region, although these efforts were limited (KRG website, 2013). The Prime Minister, Nechervan Barzani, has mentioned that steps have been taken to develop the judicial system in Kurdistan. These involve the establishment of a Court of Cassation as the highest court in the region, financial independence of the judicial system and the enhancement of training courses and technology development for legal staff and experts (KRG website, 2013). In an attempt to create a more independent judiciary, in 2007 the Kurdistan Parliament passed the Judicial Powers Law. The purpose of this new law was to make the Kurdistan Judicial Council (KJC) legally independent and responsible for its own budget, recruitment of its employees, and reporting. The KRG no longer interfere in the KJC’s financial affairs, and the chief justice was appointed by other judges instead of the Prime Minister. Thus, both theoretically and in terms of the law, the KRG no longer has direct control over the operations of the judiciary (Global Justice Project, 2009). The Higher Judicial Council – headed by the chief justice of the Federal Supreme Court and composed of Iraq’s 17 chief appellate judges and other several judges from the Federal Court of Cassation – has administrative authority over the court system (KJC website).<sup>172</sup> Thus the Judicial Powers Law of 2007 addressed most of the issues in relation to making the judicial system independent and strong. In practice, however, these reforms remain just words on paper, as judges are still weak and influenced by politicians. Despite the new law, judges

---

<sup>172</sup> Available at:

[http://www.mop.gov.krd/resources/Investment%20Projects/PDF/Ministry%20Sheetss/29\\_JudicialCouncil.pdf](http://www.mop.gov.krd/resources/Investment%20Projects/PDF/Ministry%20Sheetss/29_JudicialCouncil.pdf) [Accessed on 21st March, 2014]

remain unable to pursue cases involving political organised crime, corruption and unlawful military actions, even when presented with overwhelming evidence (Freedom House, 2012).

A former president of the Court of Appeal (interviewee 10) argued that

courts in the Kurdistan Region still face restrictions in their work. First, in cases related to high-level politicians or high-level government officials; courts are still powerless, such as in cases of corruption. Second, in relation to cases of a political nature, the court cannot interfere or maintain its impartiality. For example, in February 2011, about ten people were killed by the police and politicians, but as I speak [June 2013], many of the murderers have not been arrested, due to their political connections, despite there being clear evidence against them including video and eye-witnesses.

In relation to the same incident during the protests of 17 February 2011, when asked whether the courts could bring the suspects to justice, a judge of the High Criminal Court (interviewee 7) said that some of the suspects had been arrested and some were in prison. Some of those in prison held high positions. However, he admitted that

some of the suspects were members of political parties. As a court, we issued arrest warrants against them, but we could not bring them to justice due to political influence. Frankly, the police have no power to arrest a politician from a ruling party; it is not easy to go and arrest a politician at his home without the consent of his party.

In relation to the same case, a media academic (interviewee 31) criticised the judiciary thus:

On 17 February and the days following, civil protesters were shot, and many were killed and hundreds wounded<sup>173</sup> ... so far, none of the criminals have been arrested or sent for trial because the ruling party is clearly not willing to bring them to justice. At the same time, a young man was convicted and imprisoned for more than a year for stealing a barbecue fire pit that cost less than \$10!

---

173 According to news reports, ten people were shot dead and nearly 250 were wounded. See, for example, Kurdistan Region-Iraq News in Brief, 6 April 2011. Available at <http://ekurd.net/mismas/articles/misc2011/4/kurdlocal946.htm> [Accessed on 21st February, 2013]

These statements by members of the judiciary and academics provide evidence that a politically influenced judiciary is one of the failings of the Kurdistan Region's judicial system.

A judge of the Criminal Court (interviewee 35) described a similar shortcoming with the judicial system, namely the weakness of courts in relation to those cases where high-level people are involved in criminal acts such as corruption. He admitted that he had never seen ministers, deputy ministers, directors-general or the like face investigation or conviction, because these people were so powerful they could override any punishment.

The judicial system in the Kurdistan Region is not immune from criticism by government officials, either. In an interview posted on the KRG website on 11 February 2009, Dr Yousif Mohammad Aziz, KRG Minister for Human Rights (at the time), stated: "One of the biggest problems we face is the judicial system. The courts, judges and general prosecutors need to be reformed and some violations of human rights are even caused by the judicial system" (Global Justice Project, 2009).

There are various explanations for the condition of the judiciary in Kurdistan. A number of interviewees commented that some judges did not have the knowledge and experience required for their jobs and therefore could not make impartial decisions or perform in the interest of justice (interviewees 3, 13 and 30). Others criticised the recruitment system and noted that the recruitment of judges needed prior approval by the dominant party's leadership. Furthermore, those responsible for recruiting judges were politically influenced people and responded to the recommendations of their party (interviewees 1, 8, 15, 17, 26 and 30). The judiciary is, thus, unable to perform an impartial check on the government, although reforms are currently being considered in this area.

This study considers that an honest and respected judiciary has a unique function to perform in countering corrupt governments and upholding the rule of law. Judges are able to play a big role in the process of checks and balances and fighting corruption; however, at the same time, judges can play a negative role and exploit their positions for private gain. Where the judiciary is corrupt or works under the influence of politicians or officials, corruption can be facilitated, which undermines the reform process and overrides legal norms (Rose-Ackerman, 1999, pp.151–3). Thus, any strategy and plan



for improvement of the judiciary should move in the direction of making its institutions more independent and, to this end, specific constitutional and legal measures are required to protect it from political interference. Before anti-corruption strategies are designed, it may be necessary to ensure that basic judicial independence is in place and operating effectively. In particular, the reform should start with the recruitment, training and regulation of judges. Candidates for the judiciary should be carefully assessed and screened to identify any incidents of past corrupt behaviour, and (along with serving judges) given sufficient training before joining the bench to deal with corruption issues (interviewees 6, 7, 12, 20 and 28).

One of the obstacles to the judiciary's performance is the fact that, like most other state institutions, the police force is not independent, and works under political influence. A former president of the Court of Appeal (interviewee 10) commented that

The police are under the court's control as long as the case is not of a political nature. In other words, the police are under the control of the ruling political parties whenever they need them to be, because they are the members of those and get orders from their party ... For instance, the police are not able to arrest a politician or high-level official.

In relation to reform, he suggested that the police must become independent and must fully obey the order of the courts and have sufficient power to perform this. Lawyers and judges must work hard and fight with politicians and government to be independent. In addition, the KRG must generate several draft regulations and laws which enhance the power of the judiciary and police and make them more independent.

Furthermore, public awareness can also be viewed as a good tool for improving the judiciary. The media can play a role in enhancing the awareness of the public about respecting the law, and play a significant role in detecting criminals and helping the course of justice (interviewees 2, 7 and 10).

Another failing of the judiciary is that the Public Prosecution Service, which is responsible for detecting corruption, is not as active as it should be because its members are appointed on the recommendation of the political parties, so they work under the influence and control of these parties (interviewees 1, 6, 10, 12, 25, 35 and 40). In

addition, the Public Prosecution Service has no access to government information; this limits its opportunities to obtain sufficient evidence to take offenders to court. One interviewee, a KIU MP (interviewee 28) explained that “the public prosecution service is not able to gather sufficient documentary evidence to prove corruption, as there is no full access to information. Unfortunately, those who conduct corruption do so in a very clever way – they leave no evidence to be traced back”. However, during the last five years, public prosecution has seen a great improvement and prosecutors have become more active compared to previous years (interviewees 3, 7, 20, 37 and 39).

In the aforementioned resignation letter of Farhad Hussain, the Director of Public Prosecutions for Sulaimaniyah, he said:

In Kurdistan, people are not seen as being equal before the law, so the hard work of public prosecutors in revealing and prosecuting criminal cases and the hard work of judges in taking appropriate decisions will remain just so many words on paper and cannot have any effect on the ground, in particular, if the case involves people in high positions. ... Recently, the head of Sharazor district was charged under section 315 of the Iraqi Penal Code 1969 for the embezzlement of 1.5 million litres of diesel. After the charge, the court made an arrest warrant for nearly 50 days, but the Ministry of Interior (police) did not allow him to be arrested. ... The following factors make me feel that there is no point in me remaining in this job; if the rule of law is not upheld, everyone is not equal before the law, and until the three authorities become a rampart against corruption, we cannot fight alone only by the law and our pens, if no one supports us. (Hussain, 2015)

As a significant part of the judicial system, the Public Prosecution Service could play a fundamental role in the process of reform. It should be given power to perform its duties in bringing suspected criminals to trial, to ensure fair trials and to prevent improper interference by government officials or politicians. The public prosecutor should have power to investigate government institutions and local authorities (interviewees 6, 7, 9, 13 and 15).

Another failing is the traditional policy of the special pardon, which is sometimes so broad that it covers most offenders. The special pardon, issued by the president of the KRG to release prisoners, can undermine the court’s decisions and the rule of law. After all the legal work – from issuing an arrest warrant to arrest, investigations and conviction – has been conducted, the offender may be released from prison without serving the full

sentence as determined by the court. This can reduce the value of the judiciary and the principle of deterrence; it also runs against the policy of fighting crime and democratic values (High Criminal Court judge, interviewee 7). In this regard, Farhad Hussain, said:

Special pardons were issued by the president between 2008 and 2012, which led to the release of many offenders. This action reduces the value of justice and public protections ... under these pardons, dozens of major offenders have been released and hundreds millions of public money has been wasted. (Hussain, 2015)

Past experience has proved that the current criminal courts in the Kurdistan Region cannot address the phenomenon of corruption, because they work under the influence of the ruling parties, are inexperienced and have no power to chase high-ranking politicians. Creating a special powerful court managed by trained judges for corruption cases would therefore be a significant step in the fight against corruption (a KIU politician, interviewee 8). However, special courts can help only if the executive backs them up and is willing to allow corrupt people to be put on trial. An MP from the PUK (interviewee 5) said that establishing such a court would not solve this issue as the first priority was to have a powerful monitoring system, and an institution to convict the criminals would follow. Thus, creating special courts to deal with corruption can only help if supported by powerful investigatory bodies and by the authorities. In this context, a judge of the High Criminal Court (interviewee 7) also suggested that the strength of the Criminal Investigation Office was very significant for the implementation of law and justice.

Providing training for members of the judiciary and establishing a special court for tracing, investigating and punishing cases of corruption combined with harsh punishments can reduce the level of corruption. Furthermore, those who deal with court cases from the start, such as the police, the public prosecution service and investigating officers, must undergo adequate training to enable them to do their duties as required by law. For example, police should be aware of their powers in order not to misuse them, in particular in relation to the protection of human rights. The use of modern technology and science are also very important to strengthen criminal investigations and detect offenders, for example using CCTV systems, communications systems, printing

equipment and biometrics, and medical investigations such as DNA tests and forensic pathology (interviewees 7 and 37).

### **Kurdish Disputes with Iraqi Central Government**

In addition to disputes about the administration of oil and oil revenue between the KRG and Baghdad (as discussed in previous chapters), certain other problems can affect QoG in the Kurdistan Region. In particular, the question of a Kurdish nation and problems stemming from political instability have restricted proper operation and development of the democratic political institutions in the region, or at least are used as an excuse by the main ruling parties for the government's failings. The first question discussed with the interviewees was about the essential issues faced by the Kurdistan state which the government must address. The interviewees' opinions varied. Nearly 60% felt that the major issues were that of a Kurdish nation and land disputes with the Iraqi regime.

The question of a Kurdish nation has been an issue for Iraq and its neighbouring states since they were created after World War I. Following the collapse of the Ottoman Empire, the Kurdistan Region was divided up between Iraq, Iran, Turkey, Syria and the Soviet Union. The Kurds in each of these states have rebelled against the host governments several times since, seeking independence/autonomy and, ultimately, the creation of a unified country called Kurdistan. However, the states that took over Kurdistan have succeeded in suppressing Kurdish rebellions. Iraqi Kurds rose up in 1991 and established a self-governing region in the north of the country. Following the invasion of Iraq, the pre-existing autonomous status of the Kurdistan Region was approved by the new Iraqi government (Abdulla, 2012). Although this was accepted by the Kurdish political parties at the time, the dream of an independent Kurdish state was postponed but never abandoned. To achieve their dreams, true Kurds struggled to develop their political, economic and military cooperation with the West (especially fighting ISIS). Kurds also developed an economic relationship with Turkey.

Another issue that provides a potential opportunity for Kurdish statehood is the conflicts between the Shia and Sunni in Iraq and the ongoing failure of the central Iraqi government and the KRG to reach an agreement on the latter's share of national budgets and oil and gas revenues, as well as disagreements over disputed territories such as

Kirkuk and Khanaqeen. Such unresolved issues leave the Kurdish question open (Seufert, 2015). Although there is strong support in the US and the UK for the establishment of an independent Kurdish state, the official view of these countries is still to maintain a strong, united Iraq and they refuse to consider an independent state for the Iraqi Kurds for fear of further internal conflicts in Iraq, which might boost Kurdish autonomy movements in neighbouring countries.

An examination of the last 11 years reveals that the Iraqi central government did not benefit either the centre or the KRG. Despite the massive amount of oil sold by Iraq, the central government failed to address security issues or provide for people's basic needs, such as clean water, food, shelter and electricity (Katzman and Humud, 2014). In addition, as the KRG is financially dependent on the central government, the latter has consistently threatened to stop paying the KRG the 17% share of Iraq's revenue to which it is entitled, and actually stopped sending funds for a few months in 2014 and 2015. As a result, the president of the Kurdistan Region, Massoud Barzani, has repeatedly warned that the Kurds will declare their independence if federal government continues to violate their rights provided by the Iraqi constitution, including the right to export oil and receive 17% of the national budget (UNPO, 2014).

Nearly one-third of Kurdistan's land is disputed by the central government and there has been continuous conflict and tension between the two since the liberation of Iraq in 2003. According to Article 140 of the 2005 Iraqi constitution, a referendum on whether these disputed areas should join the KRG was due to be held before 31 December 2007 (Dagher, 2008). However, as of May 2016 this is still on hold, a fact that poses one of the biggest obstacles to the success of federalism in Iraq. Although both Iraq as a whole and the Kurdistan Region are supposed to be democratic according to their respective constitutions, democracy is obstructed due to persistent electoral fraud, corruption, security problems and violence (U4, 2015). Thus, it could be argued that one of the barriers to a federal system in Iraq is the lack of a genuine democratic system and ethno-cultural tolerance.

One problem may be that, in Iraq, the only legislation regulating the relationship between the central government and the KRG is the 2005 constitution. Many relevant articles (such as 111, 112, 115 and 140) have been a source of confusion and tension

between the two for a number of years, but there have been no amendments and no new ordinary laws have been issued to interpret those articles (Jawad, 2013). Thus, the Iraqi constitution lacks clear provisions for defining the authority of central government.

Another issue relates to economic growth in Kurdistan. Since the fall of Saddam's regime and the end of sanctions, the region has enjoyed greater political and economic development. The Kurdistan Region has achieved great success in relation to security and economic development compared to the rest of the country (World Bank, 2014). As a result, many business opportunities have become available in the region and its economy is growing rapidly (KRG, 2009). However, the Kurdistan Region is financially dependent upon the central government, has no clearly agreed territorial boundaries and has no true support from surrounding neighbour countries for its political ambitions. Although there has been significant cooperation between Baghdad and the Kurdistan Region over the sharing of oil and revenues, for the most part these issues have resulted in continuous disputes between the parties (Kent, 2012). Many interviewees agreed that these unresolved issues with the central government had a negative effect on QoG and economic growth in Kurdistan. A PUK MP (interviewee 24) said

In addition to the UN sanctions, the Iraqi government imposed its own sanctions on the Kurdistan Region, it did not give the region any of its revenue and it stopped all public services that had previously been provided by the centre. What do you expect from a newly democratic state established in such circumstances and in a region that has been through all these conflicts and difficult times?

As a result of the poor state of the economy, the KRG was not able to establish good governance institutions or to provide basic public services such as water, electricity, fuel, health services and education (interviewees 5, 6, 14, 18, 28, 33 and 38).

The majority of opposition politicians and MPs interviewed argued that the Kurdish political parties had always given priority to the problems surrounding a Kurdish state, putting the issue of constructing a democratic regime in second place, and this negatively affected the democratisation process in Kurdistan. They stated that the main political parties always tried to justify their unlimited power of discretion and misuse of public office by alleging that other matters should be given priority, such as security in the region. At the same time, in relation to what the ruling parties describe as "national

security issues”, the opposition alleged that they always tried to be more lenient with the authorities. For example, a GM politician (interviewee 15) said “neither the opposition nor the people insist on putting more pressure on the authorities to make reforms because they understand that our national security is more important”.

In this context it is been argued that the Kurdistan Region’s security and stability is closely linked to stability and democracy in Iraq, and that only a balance of power among the three main fractions (Shiites, Sunnis and Kurds) will keep the country stable (El-Khawas, 2008, p.62). The development of democracy in Iraq is positively related to stability and QoG in Kurdistan (interviewee 1). However, the democratic institutions will never function properly as long as critically important problems in Iraq remain unresolved, such as bringing an end to the war with ISIS, the countrywide sectarian and ethnic violence, internal security, and territorial disputes with the KRG.

This study therefore argues that solving the Kurdish dispute could help improve governance in various ways: first, it would encourage citizens in the region to demand a better QoG and better public services; second, it would establish public security, which in turn can have a positive effect on economic growth as well as QoG; and third, if these disputes are settled peacefully, there will be no excuse for the ruling parties to postpone reforms and, by contrast, the opposition parties can increase pressure on the government to undertake reforms.

### **Lack of a Clear, Enforceable Regional Constitution**

Kurdistan does not have an enforceable region-specific constitution. As the KRG’s 2009 draft has not yet been put to a referendum, it is not legally binding. Some interviewees considered this a legal problem. For example, an MP from the KIU (interviewee 13) said “The Kurdistan constitution is just a draft; we cannot rely on it because it has no legal authority”. However, from the legal point of view, as a region Kurdistan is part of Iraq, so the Iraqi constitution must be implemented in Kurdistan, and it does cover most of the issues mentioned in the draft constitution of the Kurdistan Region. Hence, the problem is not with an existing regional constitution as much as with implementing *national* laws and constitution.

Furthermore, despite the fact that the draft constitution has not been passed into law, some of its provisions have been enforced, in particular those that determine the power of the various branches of the state – the President of the Region, the executive, the legislature and the judiciary – and regulate the relationships between them.<sup>174</sup> The reason for this is that the Iraqi constitution does not include any provisions that regulate the relationship between these institutions at the regional level, so the KRG was reluctant to refer to the regional constitution in this respect.

Some interviewees argued that the lack of an enforceable constitution clearly regulating the relationships between the state institutions themselves and between citizens and the state institutions was the most significant obstacle to improved QoG and a reform process. For example, a GM MP (interviewee 2) said

One of the big problems in the Kurdistan Region is that there is no legally binding constitution. What we have is a draft, in which there are too many defects. The powers, responsibilities and duties of some important institutions such as the integrity committee, audit office and human rights committee must be clearly set out in the constitution.

This situation has led to confusion over designating the relationships between the various state institutions, and ambiguous limits to and unequal distribution of the powers of the three branches of government. Some interviewees also argued that the draft constitution extended the authority of the president of the region and the executive over the parliament and the rights and liberties of citizens. In this regard, a KIG politician (interviewee 4) argued that

our constitution is drafted in such a way that it fits the current imperfect situation. It is like a piece of cloth that is cut by a tailor for a specific person. I mean it was drafted in such a way that enables the authorities to misuse their power.

In other words, the draft constitution was written according to the will and interest of the ruling parties. For example, Article 65 gives the president of the region 24 specific and significant roles, making him the highest authority in the region, which allows the ruling parties to maintain their power (academic, interviewee 30). The majority of political

---

<sup>174</sup> See Kurdistan Draft Constitution (2009), Articles 23 to 28 and 39 to 90.



parties in the Kurdistan Region have, therefore, pressed for the draft to be amended before it is put to a referendum and becomes enforceable.<sup>175</sup>

### **Length of Exposure to and Level of Democracy, and their Effect on QoG**

The preceding chapters have noted that the constitutions of Iraq and the Kurdistan Region both emphasise democratic principles and that, since the entry into force of the Iraqi constitution, the country has held regular general elections. The question, however, remains: notwithstanding the implementation of these democratic provisions, why does the country still suffer from the symptoms of bad governance, such as high levels of corruption and lack of public services?

Treisman (2000) examined 14 hypotheses for the causes of corruption in various areas of society, the economy and politics. He tested several indices of perceived corruption for the 1980s and 1990s, using Transparency International's annual CPI and the ratings from Business International for the 1980s. Treisman found that, while the current degree of democracy or the degree of democracy for a short period is not significant, a long period of democracy (of at least 40 years) reduces levels of corruption.

Researchers agree that there is a non-linear relationship between democracy and QoG. In relation to the level of democracy, they found that, using the measure of political systems, the level of QoG is high in strongly democratic countries, medium in strongly authoritarian states and lowest in partially democratic countries. In his research relating to the length of exposure to or historical experience of democracy, Sung (2004) came to the general conclusion that, during the early stages of the democracy process, corruption might increase, but democratisation could eventually reduce levels of corruption. Younger democracies thus have a poorer QoG than older ones and perform less well than authoritarian democracies (Keefer, 2007, pp.803–4). For example, in the former communist countries, due to the political domination and the lack of a culture of protecting citizens' rights, although government institutions managed to establish new democratic constitutions, they mostly failed to carry out significant reform, so the

---

175 In May 2014 the draft Kurdistan constitution was returned to the Kurdistan parliament for further consideration and amendment. The parliament established a committee for this purpose (Kurdistan Parliament official website).

practices of the previous government remained unchanged (Stark and Bruszt, 1988, p.188). The same is true for the majority of Latin American states, where there is no tradition of respecting human rights and civil liberties, and as a result democratically elected rulers still act arbitrary (O'Donnell, 2007, pp.2–3).

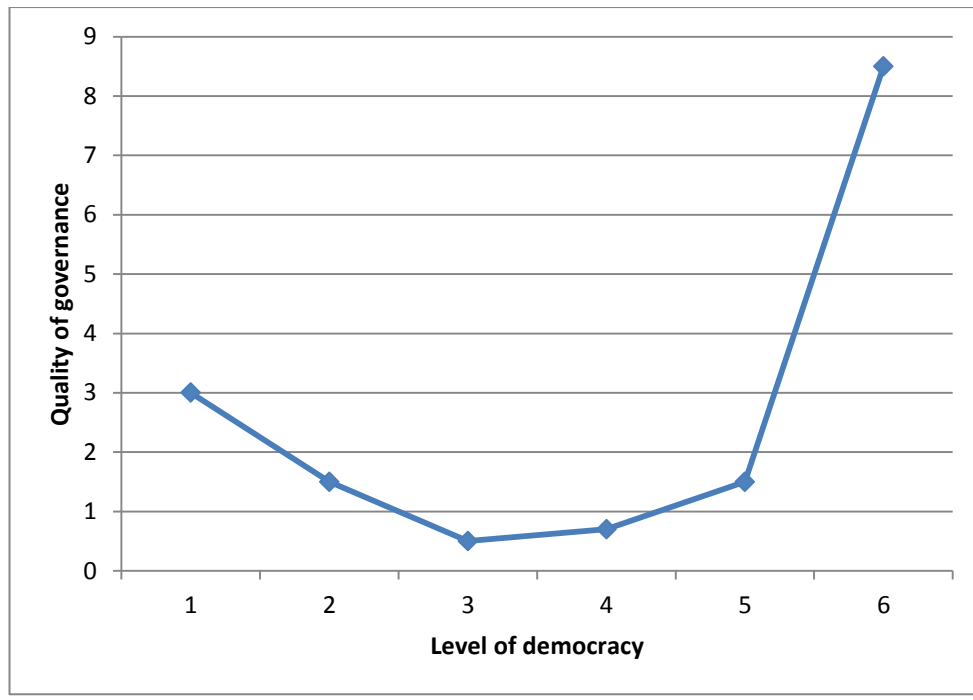
In their empirical research, Bäck and Hadenius (2008) use a large sample of 140 countries over a period of 19 years to explain the causal relationship between democracy and the state capacity (QoG). They found a curvi-linear relationship (J-shape<sup>176</sup>) and stated that “the impact of democracy on state capacity is negative at low values of democracy, non-existent at median values, and strongly positive at high democracy levels”. They demonstrated that democratisation in a highly authoritarian state leads to lower levels of government capacity and democracy, and in a semi-authoritarian regime has no effect on state capacity. However, in a more democratic state, further democratisation leads to significant and positive effects on stronger state capacity (Bäck and Hadenius, 2008).<sup>177</sup> Consequently, the institutions of transparency and accountability become more effective, the cost of rent-seeking (for example the probability of being caught and punished) rises as a result, and rent-seeking and the level of corruption fall.

Figure 12: Relationship between the level of democracy and quality of governance (J-shape)

---

176 Bäck and Hadenius (2008) suggest that some authoritarian regimes have better public administrations than partial democracies, but where the level of democracy is high this improves the public administration. They refer to this as a J-shaped relationship between QoG and the level of democracy.

177 For example, Bäck and Hadenius found that countries such as Saudi Arabia and Cuba, with a lower score for the level of democracy (scale 0.5–1), scored reasonably well for the level of administrative capacity (nearly 4), whereas states such as Liberia and Haiti, with higher levels of democracy (3–4) scored lower for administrative capacity (1–2). However, in countries with a high level of democracy, such as Finland and the Netherlands, significant high levels of government capacity can be seen (2008, p.10).



*Source: Bäck and Hadenius*

Bäck and Hadenius's hypothesis is that QoG is the outcome of the dimensions of both steering and control. As mentioned above, authoritarian regimes are strongly equipped with a hierarchical and repressive capability, whereas democracies have a system that provides the rule of law, a free press and electoral participation. In a democratic system, control from below is carried out well when the required democratic institutions are established and fully supported by wide societal resources, in particular where there are also checks and balances between the executive, legislative and judicial branches.

However, in a minimum standard of democracy, while including the introduction of free and fair elections but lacking the democratic principles surrounding procedures such as the establishment of constitutionalism and the rule of law, this may reduce the value of the effect of democracy on QoG, because states with low levels of democracy (or minimum standard of democracy) are in a sensitive position. While they are no longer capable of top-down control as an authoritarian state, the institutions that serve in bottom-up control (e.g. free press and advocates of citizens' rights) are only partially in place. Bäck and Hadenius suggest that the arrangements that characterise top-down (in authoritarian states) and bottom-up (in high levels of democracy) control systems

respectively can control the misuse of power in public office.<sup>178</sup> Nevertheless, their theory is criticised for lacking a micro basis that provides internal management tools to ensure compliance with policy and regulations, practices financial audit and provides sufficient and effective management in the public sector. Another criticism is that their conceptual framework requires an overly optimistic assumption (but at the same time an unrealistic one) about the players who carry out the change. Government and citizens are expected to be interested in reform for a better QoG and the reduction of corruption (Charron, Dahlström and Lapuente, 2010). Using data for the period 1995–2004, similar to Bäck and Hadeniu, Saha (2008) also found a non-linear relationship between democracy and corruption: democracy increases the level of corruption in the early stage of the democratisation process, but once democracy has reached its highest level, corruption decreases substantially.<sup>179</sup>

In contrast, Keefer (2007) proposes a theory with micro-foundations for explaining the non-linear relationship between democracy and QoG. The key factor for Keefer is not only the level of democracy, as suggested by Bäck and Hadenius (2008), but the length of exposure to or experience of democracy in a state. Keefer holds that young

---

178 Corruption is not merely restricted to authoritarian regimes. However, as an authoritarian regime struggles to sustain its power – and political corruption, as one of the tools to increase the power of the arbitrary rulers, can serve this aim – in this sense political corruption remains a symptom of most authoritarian regimes. Thus, in authoritarian systems in particular, political corruption is a deliberate action. The ruling parties intentionally practice corruption as an instrument of control over power and economic potential. Thus, political corruption is a normal condition in authoritarian regimes, although various forms of authoritarianism may have various levels of corruption (Amundsen, 1999).

179 The same results were found by Kolstad and Wiig (2011), who concluded that democracy has a significant impact on reducing the level of corruption. Despite the above facts, many authoritarian regimes are to some extent able to control levels of corruption. For example, although countries such as Malaysia, Indonesia and Singapore are classified as “partially free” by Freedom House for the last eight years, they recorded a good ranking for fighting corruption and providing QoG for their citizens. On the other hand, other South-East Asian countries, while in a process of political and economic transition, are more corrupt. However, the authoritarian controls of corruption are likely to be temporary, as most of these countries have not challenged the issue through economic liberalisation and political democratisation, and do not have a robust system of checks and balances by legitimate and accountable institutions. Rather, the fight against corruption in these countries is based and depends on economic strategy and, perhaps, the mood of the leaders of the day (Charron and Lapuente, 2010).

democracies fall short of older ones on a number of indicators of government performance because of the state's ability to provide a good pre-electoral environment and equal opportunity for all politicians to participate in elections. In addition, building democratic institutions and providing good public policies is costly for the government and takes time. Thus, while the state in older democracies may be capable of providing a good pre-electoral environment and equal opportunity for all politicians, in younger democracies the state cannot achieve this, and as a result the politicians have opportunities to rely on patrons, whose clients trust them but not the citizens. The outcome is that younger democracies will tend to provide clientelist policies that facilitate corrupt practices, instead of policies in the public interest.

Although Keefer (2007) concludes that longer accumulated experience with democracy is correlated with better QoG, his research ignored the level of democracy and excluded countries that never experienced a competitive election, because he hypothesises that it is mainly the length of exposure to democracy that is more significant. However, empirical research shows that, as Bäck and Hadenius (2008) state, the age of the democracy on its own cannot explain QoG, but the level of democracy has more effect on QoG, because the length of exposure to democracy alone does not matter; more significant is what happens during those years in terms of building a democracy and improving QoG.

In answer to a question about whether democratisation in Kurdistan can curb the level of corruption, most interviewees were agreed that democracy could increase the quality of government and reduce the level of corruption, as democracy encourages public participation in decision-making, a higher level of transparency, separation between the three branches of government, freedom of speech, free media, political rights, free and fair elections, and civil liberties. For instance, an MP from GM (interviewee 18) said "Corruption is a symptom of dictatorships, so corrupt politicians always oppose the democratisation process". She explained that democracy led to more openness and transparency, freedom of speech and accountability, and that these values could guarantee improvement in QoG, a reduction in corruption and improved public services. A PUK MP (interviewee 5) argued that

democracy increases the level of public participation in the decision-making process and sharing authority, and this participation will of course lead to improvement in governance. ... In addition, true democracy allows the people to monitor the authorities and subsequently they can make it difficult for the politicians and officials to misuse power for their own interests. So we can say yes, democracy can improve QOG in Kurdistan.

A KDP politician (interviewee 37) said “it is a bit soon to assess whether democracy can guarantee good governance for Kurdistan or not ... However, democracy can achieve very good governance for our region in the future”.

Levine and Renelt (1992) argue that democracy helps to check and limit corruption through providing more transparency and openness in the state institutions, freedom of expression and assembly, which provides opportunities for organised public opinion, and greater accountability. These factors can punish politicians and officials through corruption scandals, in particular where the pressures of political competition often force political leaders to act. Hubbs (2014) also consider democracy to be a significant tool against corruption because, through a process of checks and balances, democracy is capable of detecting corruption in the form of scandals. The state can achieve these checks and balances via democratic values such as the rule of law, freedom of the press, political plurality, and free and fair elections. Thus, it is argued that democracy by its narrow definition of elections alone cannot be sufficient in combating corruption, but the full set of democratic principles and democratic values are capable of and effective in reducing the level of corruption (e.g. rule of law, free media, transparency, independent judiciary and respect for human rights) (Diamond, Linz and Lipset, 1995, pp.11–19).

In the light of the above discussions, this paper argues that the level to which democratic principles are practised *and* the period of exposure to democracy *both* affect QoG. Greater practice of the democratic principles and a longer period of these practices can produce better QoG. This study also argues that, in a transitional state that has been through a long history of dictatorship and conflict such as Kurdistan, democracy requires more time to settle; many interviewees believed that Kurdistan requires more time to develop its democracy. For example, a GM MP (interviewee 9) stated that “Kurdistan society was ruled by dictatorships for more than six decades. Although we have had self-rule for over 20 years, and have always claimed to be a democracy, we still need more time for democracy to take root in society and become a culture.” In a similar opinion, a

KDP politician (interviewee 37) believed that democracy cannot be exported as a full package. He added

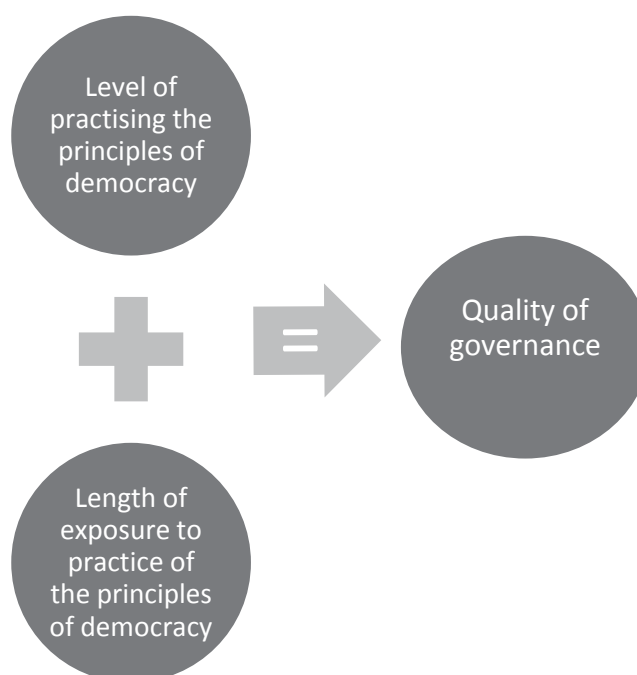
We have a history of war, fighting and violence and an old system of governance. We cannot shed the clothes of dictatorship and wear democratic clothes in just a few years. ... We need more than four decades to be settled and consolidated. ... Democracy must start in an inverted pyramid shape from the bottom of society to the top of the governance system.

If one assesses the progress that has occurred in the last ten years, it can be seen that, as revealed by a majority of the interviewees, the KRG has already begun to develop and implement laws and the constitutions. However, it might take more time to consolidate democracy in the region and produce a better QoG. For example, a KIU MP (interviewee 28) commented

I think this needs time. The media today are 100% better than ten years ago, and have some kind of freedom, in particular, in the green zone, and there is freedom of expression. This could be improved by implementing the law on right of access to information, more transparency, application of the press law, upholding the rule of law and also spreading more public awareness.

However, the passage of time alone, without progress and effort, is not sufficient to improve the democratisation process. Democracy can produce improvements in QoG, when democratic values are taken as a package and implemented in practice. However, this requires time, effort and planning to improve and modernise the state institutions and make them effective. Therefore, the degree to which the democratic values are implemented is more important than the length of exposure to democracy. A KDP MP (interviewee 34) commented that “when you talk about democracy, you cannot say whether the principle exists in the constitution and statutes; rather we must talk about the level of implementation of the values”. A GM MP (interviewee 26) clearly highlighted this, stating that “Although the length of time practising democracy is important, actual implementation of the democratic values and the extent of implementation are more important”. This study therefore argues that this is particularly true in a post-conflict territory like the Kurdistan Region. Both the length of exposure to democratic values and the level of implementing these values are significant in determining the improvement of QoG, as shown in the following figure.

Figure 13: Length of exposure and level of democracy and their effect on QoG



### **Other Factors: Economic Issues, Trade Openness, Education, Training of Public-sector Staff**

Corruption, as the worst symptom of bad governance, is usually seen as a problem of poor countries. According to cross-country regressions, per capita GDP is one of the most important economic determinants of corruption. There tends to be a strong negative correlation between per capita GDP and a country's level of corruption: corruption decreases when the economy develops (Paldam, 2002). This hypothesis is supported by a cross-country comparison in post-Soviet states, according to which the states with higher per capita GDP have better QoG and experience lower levels of corruption (Montinola and Jackman, 2002).

It has been argued that lower QoG fosters poverty; however, there is no clear answer to the question whether poverty breeds weaker QoG. One of the most tried-and-tested results from previous studies – such as Gupta, Davoodi and Alonso-Terme (1998) and Mauro (1998) – is that poorer countries are commonly found to have bad governance and to be more corrupt. However, this result must be treated with caution, since various



studies in the field show different results. Charron and Lapuente (2010) included in their analysis some ambiguous relationships between the level of economic growth and QoG. Does QoG foster economic development or is QoG simply the result of economic progress? The research revealed a positive relationship between the level of economic growth and QoG, although some other studies have outlined very diverse theoretical approaches. In all cases, economic growth may foster QoG because richer countries have the financial capacity to establish better institutions, and much economic development is correlated by many other variables that support QoG, such as the level of education, the healthcare system and a fair public-sector wage (Pellegrini and Gerlagh, 2007). Although Chetwynd, Chetwynd and Spector (2003) determined in their study that lower QoG alone does not produce poverty, it may have direct effects on development and a country's economy, which in turn produces poverty.<sup>180</sup>

---

180 Based on empirical results of a literature review, Chetwynd et al. (2003, p.15) suggest that if reforms succeed in reducing corruption they will also contribute to a reduction in poverty, in particular if the reforms achieve the following:

- economic progress
- more equitable income distribution
- strengthened capacity of governance institutions
- improved public services, in particular healthcare services and education
- trust between the government and people.

180 Despite the valuable research discussed above, many other researchers still have doubts about the positive effect of wages on reducing corruption, and have suggested that high relative salaries do not lead to less corruption (e.g. Rauch and Evans, 2000). Only a minority believe it to be relevant (e.g. Goel and Nelson (1998)), and van Rijckeghem and Weder (2001) collected public-sector wage data from 31 developing countries and drew the conclusion that raising salaries would not lead to lower corruption in the short run, but admitted that a good wage policy is still necessary in combating corruption.

Montinola and Jackman (2002), however, argue that economic growth is a proxy for the level of salaries in the public sector. As workers in the poorly-paid public-sector are more prone to supplement their wages through misusing power for more income, the higher the officials' wages, the lower the corruption (examples include South Korea, Taiwan and, now, China). In addition, in Singapore and Hong Kong pay rises are considered by researchers to be a successful tool in fighting petty corruption. Low levels of administrative corruption in Sweden are mainly attributed to generous public-sector wages (Tanzi, 1998). Some scholars, including Tanzi (1998) and Stapenhurst and Kpundeh (1999), have argued that increasing civil service wages will reduce corruption. These researchers found that corrupt behaviour is induced by poor pay, and the risk of or motive for corruption would therefore decline or disappear if incomes were to rise.<sup>181</sup>

Following the invasion of Kuwait in August 1990, the UN Security Council imposed economic sanctions on Iraq (including the Kurdistan Region).<sup>182</sup> The sanctions remained in place until 2005, creating an economic and humanitarian crisis. Several interviewees believed that the harsh impact of the sanctions on Iraqi civilians<sup>183</sup> had a major impact on the governance system and the ability of government to provide public services and wages to public employees, which motivated the people of Kurdistan to become greedy and do anything to gain wealth.

On the relationship between poverty, low wages and corruption in the Kurdistan Region, a KIU politician (interviewee 14) argued that

Kurdish people have been persecuted for decades in different ways, psychologically and physically. They were not provided with basic needs such as food, clothes and accommodation. So they became lost and

---

182 UN Security Council Resolution 661, 6 August 1990. For UN resolutions, see <http://un.org>

183 The sanctions caused poverty among the people of Iraq, and 500,000 children died through starvation and lack of medications. This crisis led the UN to issue an "oil-for-food" programme in late 2006, which reduced the impact of sanctions on Iraqi civilians to some extent. See "Review of Iraq Sanctions and Washington's Iraq Policies" Available at: <http://iraqwar.org/impossible.htm> [Accessed on 9th March, 2014]

destroyed, and human rights were ignored. In a weak individual, the seeds and motivation for corruption already exist, and when this individual works in the public sector or gets a position in the government this motivation becomes reality and he becomes corrupt.

Society consists of individuals so, if individuals are weak and corrupt, corruption becomes a symptom of society. Consequently, society can easily accept wrongdoing, and struggles to benefit from the misuse of power, particularly in a region where there is no rule of law and where those who misuse power can easily avoid being punished (interviewee 14).

The 14 years of economic sanctions imposed on Iraq produced an environment of poverty and low wages, leading the people of Kurdistan to become greedy and obtain wealth by any means (interviewee 30). A former High Court judge (interviewee 10) commented “even when an official carries out all his duties, he still behaves corruptly because of the sociological vacuum he feels”. However, low wages and poverty were causes of corruption only while the country was under the economic sanctions. After 2005, public employees began once again to receive fair wages, which led some interviewees to argue that low wages could no longer be an excuse, in particular for high-ranking officials who received more than enough; there have to be other motives, such as greed and selfishness (interviewees 10 and 30). According to the KRG finance ministry, due to the high number of public employees, 45.1% of the Region’s budget goes on public-sector salaries. A lower- or middle-level employee generally receives a monthly salary ranging from \$250 to \$1,400, while a high-level employee is paid between \$1,500 and \$2,800 (KRG Ministry of Finance, 2012). Public-sector wages, at least since 2003, could therefore be considered fair and reasonable, and are generally better than in the private sector. For this reason, this study argues that poverty alone does not motivate corruption in the KRG, but the issue of corruption in the Kurdistan context can also be attributed to personal greed.

In a different study, Wei (2000) tests the hypothesis that a low level of trade openness is one of the causes of corruption, rather than one of its consequences. He suggests that creating an open environment will lead to a lower level of corruption. In addition, a GM politician (interviewee 17) believed that politicians and high-level officials controlled the markets through companies in which they were the majority shareholders or which

were solely owned by the ruling parties. Thus, there is little space in the market for average people to trade and do business. An academic (interviewee 31) argued that the ruling parties control and monopolise the economy and markets, and many politicians became millionaires in just a few years through this practice. In addition, according to some reports, market monopoly constitutes the larger proportion of corruption in Kurdistan; the market is not free but controlled by politically connected traders, and this is one of the main causes of corruption (Sidiq, 2011).

This study also particularly notes the relationship between education and QoG. Education can be considered as the best proxy for openness of information, transparency and development of civic virtues, and is consequently likely to affect the functioning of governance institutions by (i) reducing informational asymmetries and (ii) fostering social capital. One should therefore expect education to have an effect on QoG (Acemoglu et al., 2008). Education empowers individuals with the cognitive skills they need to participate in public affairs, and increases their capabilities to understand the matters upon which they vote, recognise corrupt elites and select competent representatives. Furthermore, education strengthens civic virtues and trust by reducing uncertainty about the behaviour of politicians and officials, educating officials through regular training, and increases the benefits of social and political participation (Fortunato and Panizza, 2012). Alesina and Giuliano (2009) also concluded that: first, the interaction between education and democracy is always a positive and significantly correlated with the QoG;<sup>184</sup> second, however, this correlation is statistically significant and positive only in countries with high levels of democracy as well as with high levels of education. Using cross-country and panel data regressions, Fortunato and Panizza (2012) assessed the impact of democracy on QoG using education as an essential variable in their research. They found that democracy had a positive impact on QoG in countries where levels of education were high, and a negative effect in countries with low levels of education.

---

184 Alesina and Giuliano also confirmed a linear correlation between education and democracy, meaning that increased education levels result in more socially and politically mobilised citizens willing and interested in participating in the political process (2009).

The above reasoning led some researchers to suggest that the level of education can be considered as an indirect factor affecting the level of corruption: the higher the level of education in a country, the lower the level of corruption. Thus, in a traditional society, the level of education and schooling is low, which consequently raises corruption to a high level; this is because education is one of the factors that raise people's awareness of their rights and, indeed, their duties, and consequently creates a better environment for fighting corruption (Dollar, Fisman and Gatti, 2001). This opinion was confirmed by a number of interviewees (interviewees 21, 32, 34, 37 and 39). For example, a judge of the civil court (interviewee 12) referred to a lack of education and public awareness as the main cause of corruption in the Kurdistan Region. A KIG politician (interviewee 41) criticised the education system and argued that it ignored the most significant elements of education, such as religion, ethics and national studies. He suggested that, to fight the roots of corruption, the government must work with society to change the culture of misuse of power and should give particular consideration to people's ethics and self-censorship. In addition, a GM MP (interviewee 9) argued that

We must work to improve the education system and make the universities independent, and sow the seeds of the democratic principles in the education system to make the universities and other educational institutions defenders of the democratic process.

Improvement of the education system and public awareness can therefore be considered an effective element in the reform process and in combating corruption. For example, a KIG politician (interviewee 4) suggested that "If we want to carry out reforms in this area we have to work on public awareness and education". Singapore is one of the successful examples of bringing together all the three significant sectors – society, government and educational institutions – to play roles in combating corruption and improving QoG (Baser and Morgan, 2008).<sup>185</sup>

---

<sup>185</sup> Dr Barham Salih, prime minister between 2009 and 2012, paid particular attention to reform in the education system and improvement of human resource capacity. During his term, he drew up an important plan to improve the quality of Kurdistan's universities. With this backing, Dr Dlawar Aziz, the KRG Minister of Higher Education, proposed a number of important reforms in this regard, in particular: providing a strong basis of assessment and quality assurance in the public education system; granting 450 postgraduate overseas scholarships in science, IT and technology; developing scientific research; and facilitating good-quality private universities to participate in the promotion of education in Kurdistan.

The KRG Ministry of Planning provided various training courses to improve the capacity and skills of public-sector employees (KRG Ministry of Planning website, 2012). In this important process, the KRG was supported by a number of national and international organisations including the US Agency for International Development (USAID), the UK's National School of Government, the Korea International Cooperation, the Japan International Cooperation Agency, the UN Development Programme, the European Training Technology Center, the Kurdish Institute for Human Rights and the Kurdish Institute for Elections. These organisations played a major role in providing training and workshops to improve the system of governance and the performance of employees in various government institutions. In addition, as part of this training programme, since 2010 the Ministry of Planning has itself provided various training courses for government employees, which played an important role in respecting the rule of law, promoting accountability and transparency, and improving government performance (KRG Ministry of Planning, 2012).

Despite the KRG's attempt to improve its governance capacity by providing training programmes, according to the majority of my interviewees, the government could not achieve its target through these courses for a number of reasons. First, the failings in governance in the KRG stem from the recruitment process, in which public employees are recruited based on nepotism and favouritism rather than merit. Second, the important training courses that are supposed to prepare employees for high-ranking positions are mostly offered to employees on the basis of political favouritism. Scholarships and other high-cost training go to friends and family, while ordinary employees are sent to low-cost internal training courses. Third, these training courses are mainly held in the main cities, and a majority of the towns and distant districts are deprived of these opportunities due to cost of the travel.

## Chapter 8

### Reform

#### What Type of Reform is Required?

This study argues that the constitution cannot have a positive effect on QoG unless state institutions are independent and have the power to resist any interference or influence from politicians; the principles of separation of powers and the rule of law are upheld; and, more importantly, the military, police and judiciary are fully independent and are given more power to perform their duties free from any political interference.

A discussion of the reform process should begin with the reform package that was submitted to the KRG in March 2011. This was prepared by the opposition forces following a series of demonstrations and violence in the Kurdistan Region between 17 February and 19 April 2011. People protested against corruption, lack of public services and the politicisation of government institutions, demanding that corruption be tackled, better public services provided, and justice and the rule of law upheld. The opposition jointly submitted six main proposals to the KRG, which included the protesters' demands and the opposition's recommendations for a solution to the crisis and to implement radical reform in Kurdistan. The package comprised the following elements:<sup>186</sup>

1. Radical reform in the Kurdistan Region's political and legal system, consisting of the Kurdistan constitution, parliament's internal rules, regional electoral law, a law on demonstrations, provincial laws, and a law on city and town council elections;
2. The Peshmerga military force, the security forces and intelligence agencies to be made independent;

---

<sup>186</sup> "Oppositions Packages: The Change Movement, the Kurdistan Islamic Union and the Kurdistan Islamic Group". Available at: <http://www.gorran.net/en/Detail.aspx?id=25> [Accessed on 20th December, 2013]

3. The judicial system including the Public Prosecution Service to be fully independent, requiring reform of the Kurdistan Judicial Council;
4. Combating corruption from top to bottom, by forming an independent and effective committee; transparency in revenues and expenditure of the region;
5. Administrative reforms in the Ministry of Education;
6. Forming a new government, capable of implementing the above points.

Between 4 and 27 June 2011, the opposition parties entered into negotiations with the ruling parties demanding that the latter order the government (the police, and security and military forces) to stop arbitrary arrests, bring those who abused the protesters before justice, introduce measures to compensate the victims of the events of 17 February 2011 and thereafter, and put an end to pressure on the independent media. These negotiations ended without significant progress, and on 16 August 2011 the opposition put the same demands to the president of the Kurdistan Region. However, the president ignored the opposition demands, and the talks with him also came to an end.

This research shows that improvement of governance in Kurdistan, as in other post-conflict states, must encompass various dimensions of the state, specifically the political system, the three branches of government and their various institutions, security institutions, military forces, the education system, the media and civil society. In particular, state institutions must become stronger because it is difficult for a weak state to maintain power or meet its basic responsibilities such as providing security, education and healthcare. This study provides evidence that reform in the Kurdistan Region must involve all the three dimensions of governance: the political system, the various government institutions, and the military/security/police forces.

### ***The political system***

The main finding of this study is the availability of patronage by the political elite in the Kurdistan Region. As a post-conflict state, from the beginning of the uprising in 1991 the region went through a transitional stage. The political parties who fought against the former regime resented the government's right to rule the region without referring back to the people of Kurdistan. The ruling parties misused their power by using state resources illegitimately to pursue their interests and the interests of those loyal to them.



The outcome was that the ruling parties dominated the state institutions and began to abuse power and spread corruption throughout the various government institutions (a PUK MP, interviewee 5). As a result, the government was unable to provide the population with basic public services. In addition, between 1992 and 1996 the two ruling parties fought amongst themselves, which limited the capacity of the state even more and provided more opportunities for the misuse of power by politicians and government officials. With this in mind, this study found that rebuilding the political system according to democratic principles is the key reform required.

The success of a democratic system depends on whether political parties are able to compete for power on the basis of equal opportunity to participate in elections and to take over power if they win, and whether they are willing to support the system and accept the outcome of the ballot. This study shows that, while there are many parties in Kurdistan and people are free to establish political parties and social groups, in practice there is no real multiparty system. According to academics, opposition politicians and MPs (interviewees 1, 4, 6, 9, 11, 14, 17, 26, 28, 40 and 41), the ruling parties in Kurdistan use public resources and government institutions during election campaigns, and spend public money to buy votes.

As discussed in Chapter 7, Kurdistan lacks equal political opportunity. The two main Kurdish parties regularly exert pressure on the opposition parties (interviewees 4, 15, 17, 28 and 36). This pressure is sometimes in the form of cutting off government funds to the parties, firing public-sector employees who belong to them, and attacking and even setting fire to party headquarters and other offices. These anti-democratic activities have created an environment conducive to corruption, and weakened the process of checks and balances. This study therefore believes that all political parties, including the opposition, should have equal opportunity to participate in the electoral process without discrimination, as this will give a real chance to electors to vote for the party that they think could perform best. Furthermore, this paper argues that the improvement of the political system is a necessity for improving QoG. The political system must be regulated by law. Parliament should enact a law to enable the political system to become transparent, accountable, legitimate and as inclusive as possible (interviewees 1, 17 and 36).

### ***Reform in government institutions***

The process of improving QoG is complex and requires coordination between the various government and non-governmental institutions including the financial auditing body, the judicial system, law-enforcement institutions and other bodies of criminal justice, the media, anti-corruption agencies, bodies that deal with public-sector officials and the procurement of goods and public services, and civil society organisations (Rose-Ackerman, 1999, pp.161–4). These institutions can play an important role in strengthening integrity and ensuring transparency and accountability in the state institutions.

One possible way to improve QoG is to grant local administrations more power to provide public services. Decentralisation enables local government to have closer contact with the people and work in the interest of the poor. Several interviewees raised this issue. For example, a government official (interviewee 16) mentioned that

It is human nature that people like to take control and be at the centre of the decision-making process. Individuals in high positions of authority in Kurdistan want this too; they want to have full control of the governance system in order to be able to utilise it for their own interests. But decentralisation can work to limit the power of these people, and to expand the power of local authorities and reduce corruption and improve governance.

However, as explained in Chapter 4, decentralisation can only work in an environment where transparency and accountability are well established at all levels of government institutions, or local authorities can become prey to high-level politicians or officials (OECD, 1997, p.24).

One of the significant elements that can foster better operation of the KRG in the long term is professional training. The government should provide necessary professional training for its employees at various levels in the public sector. This can improve the expertise of government employees in the day-to-day exercise of their duties and reduce the level of corruption (interviewees 6, 12 and 28).

The government must issue new policies and regulations to reduce the political monopoly of markets and the economy to provide the necessary conditions for

functioning markets so as to respond to the public interest in encouraging economic growth and to provide equal opportunity for people to participate in economic initiatives. Furthermore, the state must have strategies and plans to establish and implement a macroeconomic policy, including transparency in markets, currency policy and security for monetary policy (interviewees 17 and 31).

### ***Institutions of accountable governance***

The institutions of representative and accountable governance are significant elements of democracy. The main role of these bodies is to determine the laws and policies to secure transparency and application of the rule of law. This study suggests reforms in state institutions including parliament, the courts and state audit and anti-corruption organisations.

### ***Parliament***

As an elected legislative institution, parliament holds a crucial place in any democratic country. Notwithstanding whether it is representative or majoritarian, generally speaking it is the institution that acts as a bridge between the citizens and government; parliament must therefore represent the true will of the people in the decision-making process. In addition to its legislative role as a scrutinising body, parliament should also work as a watchdog over government institutions. It therefore plays an important role in holding government and its ministers to account, examining and challenging the work of government, and ensuring that ministers behave properly and that public resources are spent appropriately (interviewees 1, 5, 25, 28, 37, 40 and 41). However, parliament can only be considered an essential part of democracy if it can play its mediating role effectively and if it is able to genuinely represent the will of the people and reflect the interests of poor people and the public in general (Bayley and Turok, 2005).

According to some interviewees (3, 5, 10, 31, 37 and 41), the principal functions of the Kurdish parliament are to oversee the executive branch of government and government finance. The parliament should work become more effective and ensure accountability and transparency in public-sector finances. Parliament itself should be committed to building a public service system that is accountable and makes serious efforts in this regard. To achieve this end, the parliament should amend the relevant existing laws,

such as the Press Act, the Right to Access Information Act and its own internal procedures, in such a way that allows it to become an effective monitoring body that can contribute to curbing corruption in the Kurdistan Region.

Several interviewees (5, 24, 25, 36, 28, 29, 37 and 40) made suggestions as to how the above functions could be performed properly. The most significant were:

1. The Kurdistan parliament must be made much more independent and powerful, in such a way that MPs have the right to speak and to decide free from illegal political interference;
2. All issues of governance must be decided and discussed in parliament, rather than in the offices of political parties, as currently happens (the ruling political parties use the parliament as a rubber stamp for legalising their decisions. The political parties often make decisions in advance and then demand, through their MPs, that parliament approves them by putting them to a vote.);
3. Parliament itself must become much more active, play its supervisory role and enforce regulations and the law on the government and every individual;
4. Parliament's work should be as open to the public as possible;
5. Parliamentary committees, particularly those on integrity, natural resources and finance, must be given sufficient power to enable them to hold ministries accountable before the parliament (currently ministers often ignore MPs' demands to question them and even often refuse to respond to their written questions);<sup>187</sup>
6. The parliament must adopt a better mechanism for communications and cooperation between parliament and the political parties, the executive and civil society. This can bring them closer together, enabling them jointly to diagnose the defects in the governance system and suggest practical measures to address them.

---

187 For example, some of the MPs interviewed suggested that members of the Kurdistan Parliament be empowered to call ministers and civil servants to account and participate in the detailed scrutiny of budget estimates. Parliament should be able to question any action of an official through question time, an adjournment motion or a debate.

### *Anti-corruption organisations and state audit*

Public resources are a vital part of government as well as an important factor in a sound democratic system. The legislature and the public need to know whether the government's resources are properly managed and used in accordance with rules and regulations, and whether government projects are economic, efficient and effective, and achieve the established goals. Thus, an effective anti-corruption strategy and state audit system can be a crucial part of the reform process and improvement in the decision-making process, strengthening monitoring and enhancing a sense of responsibility (Monfardini and von Maravić, 2012).

Public accountability is partially ensured through an effective auditing system. The state audit unit is expected to monitor the efficiency and cost-effectiveness of the administration's activities and to prevent corruption in financial procedures (Anderson, Francis and Stokes, 1995). This can be facilitated by regular submission of departmental accounts and reports of expenditure, materials, manpower, equipment, facilities, stores, assets etc. to the Auditor General who will report directly to the government (UN Expert Group Meeting, 2012). Salleh and Kar (1995, p.32) argue that the scope of the Auditor General's duties should not be limited to administrative departments; it should include the accounts of state, local and statutory bodies and even of companies majority owned by the government. The main implication here for policy-makers is that the KRG's audit mechanisms (including the Integrity Committee and the Financial Audit Office) can only be effective when these bodies become fully independent of the ruling parties and the government (interviewees 4, 8, 9, 13, 18, 20 and 27).

### *Civil society*<sup>188</sup>

Civil society is composed of a diverse set of actors and institutions that can exhibit shifting degrees of formality, autonomy and power. Examples of such organisations are charitable organisations, non-governmental development organisations, women's organisations, local community groups, religion-based organisations, professional clubs

---

<sup>188</sup> Civil society is defined as "the realm of organized social life that is open, voluntary, self-generating, at least partially self-supporting, autonomous from the state, and bound by a legal order or set of shared rules" (Diamond, 1999, p.221).

and associations, trades unions, business associations and various advocacy groups (EPIC, 2012).

Civil society has a significant role to play in promoting democracy and QoG (Edwards, 2009). Article 45 of the 2005 Iraqi constitution confirms that the state should work to promote the role of civil society institutions and to encourage their independence. Most interviewees referred to civil society as an effective tool for reform.

Many scholars emphasise the connection between civil society and democracy (Diamond, 1999, p.221; Boussard, 2003, pp.72–3; Feinberg, Waisman and Zamosc, 2006, pp.1–16). These scholars agree that civil society can work as a supplement to political parties. Through educational awareness and creating public influence, civil society can increase political participation, deepen democracy on a more local level, monitor political representatives and hold the state accountable. Civil society also can participate in the reform process through restricting the power of the state (Bevis, 2003, p.6) and supporting the state in fulfilment of its function by facilitating political and social interaction and encouraging citizens to participate in economic, social and political activities, and also to create social pressure on the state in the decision-making process (Khan, 2005).

The connection between government and the public is very weak in Kurdistan because there is no system to create and regulate the relationships between them (interviewees 5, 8, 13, 28 and 31). Khalil (2009) believes that the KRG must think about new policies and regulations in governance institutions to regulate the relationship between the state and the public, such as allowing the public to have a voice and to be involved in the decision-making process. Some interviewees suggested that political parties must educate their members to make them respect the values of democracy, the law and human rights. Civil society should become more developed and independent in order to have an impact on public awareness and on government policies (interviewees 1, 5, 8, 13, 28 and 41).

In Kurdistan most social groups are associations and organisations established under the legal protection of the constitutions<sup>189</sup> and laws (US Department of State, 2008b). However, one of the big issues with these civil society organisations is that many of them – like other state institutions – do not enjoy true autonomy and are still not independent from the political parties.<sup>190</sup> For example, the major labour unions, professional associations (teachers, lawyers, doctors etc.), and clubs (youth, students, women, children, disabled people etc.) were directly or indirectly affiliated to the two ruling parties (interviewees 1, 7, 10, 30, 31 and 40).<sup>191</sup> These organisations are shadows of the political parties and work under their control and direction; instead of allowing them to represent particular groups in society, the parties direct these organisations according to their own interests (interviewees 4, 5 and 34). For instance, according to documentary evidence provided by Ali Hama Salih, deputy head of the parliamentary finance committee, prime minister Nechervan Barzani granted 6,000 square metres of land in a very expensive part of Erbil to Rwanga, an organisation owned by his son Edris that works in the interests of the KDP (U4, 2015).

For the above reasons, such NGOs are unable to work to achieve democratic values or to have a significant effect on improving public services (KIU MP, interviewee 28). It can therefore be concluded that civil society in Kurdistan does not play the positive role one should expect in a democratic society, and this negatively affects the reform process in the region. As part of its attempt to empower civil society, the Kurdish parliament has recently enacted a new law regulating the funding of NGOs, and the government has established an independent institution to implement such a law. The new law makes the creation of NGOs much easier, and free from legal bureaucracy. A KDP MP

---

189 See Articles 39 and 37 of the 2005 Iraqi constitution.

190 Nearly 60% of interviewees criticised the position of civil society, accusing most of these organisations of being dependent on the ruling parties, and argued that most of the NGOs in Kurdistan were originally formed either directly or indirectly by the political parties. However, they agreed that there were some NGOs that are independent, but the government and political parties directly and indirectly created problems for this kind of organisation and sometimes accused them of causing disorder and riots or of working in the interest of foreign interests or the opposition (interviewees 10, 17 and 41).

191 The prevalent authoritarian political culture and the chaotic situation during the civil war (infighting between KDP and PUK) between 1992 and 1996 allowed the political parties to exert strong influence and put restrictions and control over civil organisations' activities and prevented these entities from functioning autonomously.

(interviewee 39) described the new law as “very good”, commenting that, if implemented, it could improve conditions for NGOs and allow them to achieve their aim as is expected in a democratic society.

This study suggests that civil society can play a significant role in supporting the reform process in the following four ways.

1. By acting as a counterpart to the state through creating public pressure and, by so doing, holding the state accountable and thereby improving QoG;
2. By persuading politicians to include citizens’ demands in their political agenda;
3. As an educator, by informing people about respect for their rights and duties, and creating people’s trust in the system of governance;
4. Civil society can be a source of a new political alternative.

In a democratic society, these independent associations not only create public awareness but also give citizens opportunities to participate in the decision-making process (Dahl, 1998, p.98).

However, this research argues that, for civil society to play its role in improving QoG, the government and the NGOs themselves must work hard to be free of political influence. This could be achieved in various ways:

1. Regulations for creating an organisation must be clear and easy;
2. The existing government funding for NGOs must be based on their activities and whether these serve the public interest, ignoring political considerations;
3. Civil society organisations must be allowed to be heard and must be given the opportunity to deliver the people’s opinions to government and to participate in public decisions;
4. NGOs should expand their activities to reach towns and villages to reflect the voice of all society, rather than restricting their work to the big cities, as now (interviewees 5, 10, 14, 20, 26, 35, 36 and 41).



### ***Police, security services and military forces***

The military forces, security services and the police are the most crucial dimensions of government in any state because they relate to the core of state capability, which is an indication of good governance. Without providing a minimum level of security to society, the state is unable to fulfil its duties. These forces are necessary to protect the safety and security of citizens, implement public policies, and enforce the law and court orders. This approach is consistent with the definition of state provided by Max Weber (1946, p.78): “The state is a human community that (successfully) claims the monopoly of the legitimate use of force within its given territory”. Whilst these forces are very significant in a democratic state, their existence is not enough; they need to be independent of the political parties, they must work in the best interests of the public, and they should be subject to civilian control (Dahl, 1989, pp.245–6). Particularly in a young democracy, there is the possibility of interference by the military in the decision-making process or sometimes even overthrowing the elected government, especially where the military is led by people who worked in the former authoritarian regime (as occurred in Egypt on 3 July 2013).

Unless these cohesive bodies can act independently and impartially, they may bring the unlawful use of force and violence to bear in political debate for the advantage of themselves or those close to them, and this can be expected to be the area with the greatest resistance to reform. Many interviewees regarded the security services and the police as part of the problem rather than part of the solution. An independent security body that works in the interests of the public and according to the law and the basic principles of democracy and human rights is therefore a prerequisite for all other state functions in Kurdistan (interviewees 2, 6, 13, 16, 17 and 41). Reform of the police and security forces should include reforms in recruiting mechanisms, and introducing special training about the rule of law, democratic values and human rights (interviewees 1, 3, 7, 10, 13, 15, 38, 28 and 40).

However, in order to prevent further civil wars, the political and social actors should be aligned with the national interest and support the peace process; and radical but gradual change should be undertaken within the military, security services and the police, so that these forces become independent, powerful and professional in order to work in the interests of the public rather than in the interest of a particular political group. However,

this is no easy task, due to the various interests of powerful politicians and their militants; extra caution must be taken as the possibility for reform has to be weighed against the certain risks of such an approach. Finally, reform will require nationwide, inclusive negotiations taking the interests of the ruling parties into account, or any reform may result in more violence and chaos (interviewees 2, 4, 6, 10, 13, 16, 17, 18 and 26).

### **Combating Corruption as Part of the Reform Process**

As discussed in Chapter 6, corruption is a major problem in Kurdistan and its treatment must be given priority. The ruling parties were blamed for the corruption because they politicised the entire state apparatus: the judiciary, government institutions, military forces, police and the security services. However – as nearly 30% of interviewees believed – despite all the defects in the governance system in the Kurdistan Region, at least in the last couple of years there has been some progress towards reform and good governance. The head of the Kurdistan presidency’s reform committee, Judge Azad Mala Fandi, mentioned that during the reform operation ordered by the president his committee cancelled 394 government projects because corruption was involved and another 300 were under investigation. He also stated that 2,000 hectares of land taken through corruption had been returned to the government. However, because corruption has been occurring for many years in Kurdistan and some high-ranking politicians are behind it, these reforms are minor and cannot eliminate corruption in the region (US Department of State, 2012).

As a GM MP (interviewee 26) commented, the KRG must dedicate itself “to perform as the servant of the people in an accountable and transparent way”. This can be done specifically by requiring regional ministries to disseminate and gather key economic information, allowing citizen participation in the decision-making process at both the local and national level, and by requiring ministries to follow transparent rules and regulations. By following international accountability and transparency standards, the KRG will be better placed to attract international investment and can consequently improve its QoG (USAID, 2008).

As mentioned earlier, a PUK politician (interviewee 38) identified two main causes of corruption: human greed plus the lack of integrity, and an easy environment for corruption to flourish. On this foundation, he presented two significant remedies (ethics and deterrence) for reducing the level of corruption:

First, treating the “sick” people – through the education system, public awareness with the help of the media and NGOs, and implanting the roots of humanity and ethics in people – to reduce human greed and increase ethical and good behaviour in society. Second, creating an environment that makes corruption more difficult, through powerful courts, public prosecution services, police and anti-corruption institutions such as the integrity commission and financial audit commission; all these institutions are very important, because they can create an environment where a sick person cannot feel safe in behaving dishonestly for fear of prosecution.

As discussed in Chapter 5, the Kurdistan Region has good laws and regulations and the necessary institutions for implementing the law and the constitutions. However, in the final analysis, those who work in these institutions are individuals. This study therefore suggests that the government must give particular attention to the education and training of individuals and encourage educational institutions to instil ethics in individuals so that they feel responsible and act in a moral manner. It can be inferred that individuals must be motivated to acknowledge the public interest in their work, and required to reflect on the practice of behaviour and work. The KRG must motivate organisations to ensure that they enforce policies to solve corruption issues and must learn to recognise conflicts of interest and share their experiences by having open discussions among colleagues so that circumstances that may lead to corrupt behaviour can also be eliminated (a KIU MP, interviewee 13). In addition, the institutions that monitor the government must be strengthened, because it is human nature that most people will not hold back from committing a crime unless they are almost certain to face punishment. Bodies that could play a monitoring and deterrence role over the KRG – such as the media, civil society, the integrity commissions, the public prosecution services and the judiciary – must therefore be active and powerful (academic, interviewee 6).

According to Romano (2010), a change is required in the political space in Kurdistan in order put an end to corruption. He says that the centres of power in society – like the flow of cash to the PUK and KDP, which are completely corrupt – need to be challenged. An academic (interviewee 6) said that the first step in the reform process

must be the separation of the government from the political parties, to reduce political influence through reductions of political power and its role in the decision-making process. A civil court judge (interviewee No 35) commented “reform can be undertaken only through a genuine separation both between the three branches of government and between these authorities and the political parties”. However, this is not an easy task as the state institutions are linked to the ruling parties in a way that would be very difficult to disentangle.

Many scholars have found that genuine political will is a crucial factor for eliminating corruption (Brinkerhoff, 2010, pp.246–9; Kwok, 2012; Fritzen, 2006; Abdullah, 2008; Amundsen, 2006). Political will is not a straightforward issue because it relates to individuals as well as systems and government activities. This study therefore argues that political will includes not just the motivations of politicians, but also their capacity as well as actual practice through the governance institutions; and that political will can vary according to the political system concerned. For example, in a democratic society where the voice of the people is respected, political leaders are more likely to be willing (indeed keen) to pay attention to people’s interests and to undertake reforms, particularly where the system is built on the rules of transparency and accountability. However, in a less democratic society or in authoritarian regimes, political leaders are less willing to support a reform process because the political system is based on satisfying particular groups and clientelism among loyalists who support the ruling parties, rather than paying attention to transparency and accountability. Thus, political leaders in such societies are unlikely to support combating corruption (Brinkerhoff, 2000, pp.242–5). In this context, despite various attempts by the KRG to fight corruption in its institutions, there is no clear sign of improvement due to the lack of genuine will by the ruling parties to reduce corruption. A PUK MP (interviewee 5) stated that “There is no genuine will for reform, because most of those who have high positions in the government are involved in corruption in some way, and even if they aren’t involved personally, their relatives and friends are”. As a judge of the Court of Appeal (interviewee 10) observed, the elites only tend to undertake reform as long as it does not put their own interests at risk.

However, tackling corruption is difficult and it cannot be done without changing the political system. The governing parties must change their internal regulations and

policies because ultimately they are the ones who rule the state. The political parties must educate their members and tell them clearly that they should work for the party's interest only when in the party's offices, but when they have a position in government, they must work in the public interest (a KIU MP, interviewee 13). To reduce political domination, it is also important to have a Code of Political Conduct, which must be signed and implemented by all the political parties.<sup>192</sup> This code of conduct should include a framework for how politicians and party supporters ought to behave. Political domination and misuse of power could be reduced by taking various measures, some of which relate to human values and ethical issues. Encouraging people and spreading values such as religious and societal ethics can motivate individuals and society at large to help them not to misuse power and not to tolerate this misuse in others (interviewees 31 and 38).

As suggested by a majority of interviewees, this study also considers public awareness an important weapon for combating corruption, because political domination was initially legitimised by the election result and hence peoples' votes. If people become aware of corruption – through the media and education system – and also of their rights and responsibilities, they can remove the corrupt elites by using their vote. The literature review demonstrates that it is mainly the media that complements the three branches of government in controlling the misuse of public office by officials (Adserà, Boix and Payne, 2000). However, the lack of independence of the judiciary and the media has a positive effect on the perceived level of corruption (Katzman and Prados, 2005). The idea that independent media can curb the level of corruption was confirmed by the

---

192 There are various sample codes of conduct for political parties from which the KRG might benefit. The International Institute for Democracy and Electoral Assistance (International IDEA) has adopted a spectrum model Code of Conduct for Political Parties Campaigning in Elections. This voluntary code provides fundamental rules and regulations for ethical political behaviour. More information can be found on the website of the Electoral Knowledge Network, available at <http://aceproject.org/ace-en/topics/ei/eic/eic04/eic04a> [Accessed on 17th March, 2016] or the International IDEA website [http://www.idea.int/publications/coc\\_campaigning/upload/polparties.pdf](http://www.idea.int/publications/coc_campaigning/upload/polparties.pdf) [Accessed on 17th March, 2016]

See also: Code of conduct for political parties, candidates, canvassers and campaigners on the handling of postal vote applications and postal ballot papers in England and Wales. Available at [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0008/108485/Code-of-conduct-postal-vote-applications-England-Wales-2012.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/108485/Code-of-conduct-postal-vote-applications-England-Wales-2012.pdf) [Accessed on 17th March, 2016]

majority of interviewees, but the media and other pressure groups are only able to become effective if the government practices openness in its institutions. Like the majority of interviewees, a government official (interviewee 16) commented that government institutions must operate more transparently; journalists and MPs should be allowed to enter government offices to monitor government activities and track down cases of corruption. Furthermore, this study suggests that revealing cases of corruption will not have a major impact on curbing the level of corruption unless those misusing their power are brought to justice and convicted. To achieve this end, the judiciary must be independent and more effective. The courts should not work under the influence of politicians and judicial staff must be recruited through an independent professional body taking qualifications and skills into account; they should also receive adequate training in order to develop their quality of service to international standards. Furthermore, the state should provide secure, fair remuneration to judges (a judge of the High Criminal Court, interviewee 7).<sup>193</sup>

Finally, even though the level of corruption in the KRG is high and rooted in most state institutions, by following the above recommendations accountability and less corrupt governance is still possible.

### **Inadequate Checks and Balances**

As explained in the previous section, corruption has many causes, such as the absence of a proper democratic system and political domination of state institutions including the police and military, government offices, the judicial system, the media, civil society and NGOs. This creates an environment which lacks the rule of law, accountability and transparency, failings that paralyse the operation of the checks and balances that are essential for improving QoG and fighting corruption.

---

193 Remuneration security means that the salary of all judges should be adequate, fixed and secure and not subject to arbitrary change by any branch of government or politicians. The objectives, of course, are to ensure judges do not come under pressure or influence and are not unduly worried or distracted by their present and future financial state, and that remuneration is sufficient to attract the most competent and qualified people into the judicial sector (Kelly, 1996).

The system of checks and balances is defined in this paper as a system in which the different parts of state institutions or other societal institutions have powers that affect and control the governance branch from abusing its power and prevent corruption. The majority of interviewees felt that to activate the process of checks and balances, it was important to implement democratic principles, in particular free and fair elections, freedom of speech and the media, the rule of law and transparency. In addition, most interviewees believed that separation between the three branches of government and reducing political domination over state institutions could improve the quality of governance in Kurdistan.

This section will explain the interaction of the three categories of institutions that provide checks and balances on corruption: the “pressure institutions” (the media and NGOs), the “deterrent institutions” (the monitoring bodies, the public prosecution service, the police and the judiciary) and the electoral system (Grimes, 2008 and Prillaman, 2003). The theoretical model of reform provided by this paper shows that each of the three has an effect on the prevalence of corruption and improving QoG. The effectiveness and independence of NGOs and the media determine the probability of corruption being investigated. The effectiveness of the deterrent institutions can guarantee that corrupt people will be punished. Finally, elections allow the public to vote out the corrupt elites. However, when the three institutions are weak and dependent and elections less competitive, corruption can easily flourish (Waisman, 2008). The effectiveness of the checks and balances mechanism depends on whether the media and NGOs can point out cases of corruption (this depends on transparency from the government side), whether the deterrent institutions (the prosecution service, police) can trace dishonest people, and whether the courts punish them. Voters are unlikely to re-elect an incumbent if he is dishonest, and even less likely to do so when clearly informed by the media of the extent of his misconduct (Waisman, 2008). It is essential that the media should play their rightful role in relation to the reform process in Kurdistan.

This study indicates the significant role of competitive elections in a democratic society and how the deterrent institutions and the independent pressure institutions have a positive and significant effect on QoG and the level of perceived corruption. The media and NGOs complement both deterrence and the electoral system. The media and civil society organisations complement the three branches of government in improving QoG

and controlling corruption. Enhancing the freedom of expression and freedom of association as two important values of democracy may therefore be a good starting point for a reform process seeking to improve QoG and curb corruption (Freille, Haque and Kneller, 2007).

The timeline of the checks and balances process is:

1. The ruling party chooses whether to misuse its power and the level of corruption, using different forms of corruption as a way of maintaining its power;
2. Depending on the level of political influence, the media decide whether they can discover, investigate and report, and the NGOs decide whether to put pressure on the government for reform;
3. The public prosecution service, judiciary and police choose whether to detect, investigate and punish;
4. Elections are held and the ruling party tries to win by any means; the voters decide who will be in power next.

In a democratic system, the voters evaluate the level of corruption influenced by media reports, and can make demands of the government through civil society institutions. The media and the NGOs must look directly at the possibility, benefits and costs of investigating corruption. Their decisions are influenced by whether the public prosecution service, judiciary and police decide to pursue the case. For example, taking a particular TV channel as representative of the media, if it is able and willing to report a corruption scandal, it expects to gain reputation and more viewers, and earn more income from private and public advertisements. The possibility and benefits of reporting corruption cases could be smaller if the government and politicians punish independent media outlets by not giving them their advertising (where the media are financially dependent on the ruling parties) or if the government uses violence against them. The process of discovering and investigating corruption has a cost in terms of time and money. Further, in partially democratic countries there is an additional cost associated with threats and violence from the ruling parties and government against the free media.

The relationship between the authorities and the media must be improved and the solution for media outlets is not to develop censorship but to enhance the quality of



training. The KRG must ensure that journalists have access to information within all public administrations and must draw up a list of officials specifically authorised to respond to questions from the media.

According to Waisman (2008), the cost of detecting and investigating corruption for any independent media could be normalised to zero if the media were able to detect and investigate free of any threat or violence, if the public prosecution service and the police responded to the media and decided to investigate, and if the judiciary chose to work impartially and punish dishonest officials and politicians. If this were the case, the free media could investigate with certainty. However, the media are unable to investigate if either (a) they are dependent on the ruling elites or (b) are independent or free but refrain from reporting corruption because of threats or violence. Moreover, where the prosecution service and police have chosen not to investigate and the judiciary decides not to punish (or could not punish because it is dependent), the media's perceived net benefits could be reduced by half with the same level of cost and they may eventually decide not to report the case. However, this also depends on the degree of the media's dependence on the government and the ruling parties. The more dependent the media, the lower the average net benefit from investigation. If the media decide not to detect or investigate, they receive a positive constant benefit in terms of the value of choosing the "safe" alternative. As stated above, if the police decide to investigate and the judiciary convicts the dishonest incumbent, the cost of detection and investigation for the media drops to zero and they can proceed with certainty (Freille, Haque and Kneller, 2007).

In determining the relationship between the democratic electoral system and the level of misuse of power by elites, scholars have proposed that there is an agent model theory relationship between elites and voters. In a democratic state, politicians serve as agents and voters serve as the principal. The agents struggle to remain in office, while the principal has the option (through elections) to seek a degree of integrity, honesty and competence from the elites whom they vote to represent them. However, in the electoral system (in this agent–principal relationship) the ruling politicians have control over various resources as well as crucial information which enables them to dishonestly extract rents, for their own benefit and/or to pay for election campaigns. In theory, a corrupt politician (if known for being corrupt) should have less opportunity to win an election than a politician who is known to be honest. Politicians should thus weigh up

the benefits to them from either abusing of power or appearing honest to their constituents so as to be able to remain in office (Persson, Tabellini and Trebbi, 2003). Theoretically, therefore, corruption is likely to occur when the ruling party is more sure that the chances of being are detected is low.

Thus, the mechanism of checks and balances in a democratic system has a direct relationship with the election process and its outcome. The incumbent obtains advantage from extracting rent while in power and future benefit through using the extracted rents to remain in power. He is only able to obtain rents today if he is not investigated and published by the judiciary, and he can only get rents in future if the voters do not drop him in an election. Thus, when elections are less competitive, it is more likely that he will be re-elected and remain in power despite being dishonest. As a result, corrupt behaviour becomes cheaper for the incumbent and he may decide to extract greater rents (Waisman, 2008). However, this mechanism only works in a democratic state where the judicial system is independent and powerful and the media are free and independent, otherwise dishonest incumbents would be able to remain in power notwithstanding how they behave.

For the purpose of analysis, this study assumes that the media are likely to be more interested in reporting a corruption scandal when (1) they are independent, (2) they are free from intimidation, (3) they are allowed to obtain information, (4) more importantly, their work leads to investigation by the police and public prosecutors, and punishment by the judiciary, and (5) their reporting ends with the incumbent being ousted through a free and fair election. There is also a negative association between the interest in reporting and the five factors mentioned above, inasmuch as when independent media face intimidation, journalists become less willing to pursue cases of corruption, and the more difficult it is to obtain information, the less able journalists are to pursue the story. If the police do not investigate and the judiciary do not convict dishonest people, the media become less interested in reporting corruption because it is less beneficial for them if no action is taken. And finally, the media become less willing to investigate and report if revealing corruption does not lead to the dishonest incumbent being thrown out through elections, for example if the elections are not free and fair and the incumbent can win regardless of his/her dishonesty.

In countries with bad governance and high levels of corruption, as in Kurdistan, governments and political parties in power prefer weaker checks and balances. They try to achieve this by attracting the loyalty of the media, judiciary and voters and by pressurising and oppressing those who oppose the government. Most interviewees felt that in Kurdistan the incumbent and the ruling party “owned” the majority of the media and NGOs, and used them (directly or indirectly) to praise and compliment the government and to defend their dishonest activities. Further, the ruling parties damaged an investigative media through both economic and violent means, using both persuasion (the carrot) and coercion (the stick) (Ahmed, 2012). This was confirmed by many interviewees. For example, a GM MP (interviewee 18) argued that “The authorities use the policy of carrot and stick – if you act against them they raise a stick to you, but if you work with them they give you carrots like a rabbit”. Thus the ruling parties provide funds and other support for the dependent media and make them stronger, whereas those organisations that choose to be independent are not just deprived of funds, but have obstacles imposed to hinder their activities, and are intimidated and harassed. Hence, they cannot be very active and cannot bring pressure to bear on the government to undertake reform.

Another factor that devalues the role of the media is that in Kurdistan those who commit corruption are very careful to avoid discovery; hence, when the media talk about corruption scandals, they cannot gather the required evidence because there is no transparency and no right of access to information, although in some cases – such as the oil deals and recruitment to public office – they are almost certain that corruption has occurred. When a journalist tries to investigate a particular case of corruption, he/she faces the possibility of being charged with libel or defamation, or even assassinated. This deters the media from investigating or reporting corruption (a former judge of the Court of Appeal, interviewee 19).<sup>194</sup> Freedom House considers Iraq to be one of the countries

---

194 According to most interviewees, in Kurdistan, there are four different types of media with different strategies and policies. The first is the media belonging to the ruling parties, both of which own large mass-media outlets (e.g. GK TV, Kurdistan TV, Kurdsat TV, Zagros TV, Khabat (newspaper) and New Kurdistan (newspaper)). The second is the media owned by opposition parties (GM, KIU and KIG). The third is the private local media, including NRT (TV channel), Awene (newspaper), Hawlati (newspaper) and Lvin (magazine). The fourth is the shadow media, affiliated to neither the KDP nor the PUK but self-described as “private” (e.g. Rudaw News network, Hawler (newspaper), Balga (magazine), Xandan and

well-known for poor press freedom, with a rating of “no free press”, and several international human rights organisations report hundreds of instances of violence against journalists and media professionals in Kurdistan each year.<sup>195</sup>

Another problem is that the judiciary cannot directly rely on the information obtained through the media in order to start a legal process against a suspect incumbent; it must collect its own information and conduct its own investigation until it finds verified evidence that will stand up in court. If the incumbent is convicted and thrown out of power, he may be replaced by another dishonest politician, and can still run for election in the next cycle. This is justified when the incumbent is from the same group of a political party that shares the benefits of staying in power. The corrupt politicians and officials punish the journalists who investigate cases of corruption through violence or by starting a libel or defamation claim against them. This is possible in Kurdistan as the judiciary follows the orders of the elites, because it is dependent on the ruling parties. Consequently, instead of punishing a corrupt incumbent, it is more likely that a dependent judiciary will punish any investigating media on behalf of the incumbent, and this can lead to the media remaining silent on cases of corruption involving high-ranking people (interviewees 2, 7, 10, 17, 30, 33 and 40).

---

Nawroz (interviewees 1, 2, 7, 10, 17, 20, 25, 30, 33, 40 and 41). The ruling parties’ media and the shadow media are funded by the government, although they serve only the will of the political parties, not the national interest. The media of the ruling parties and the shadow media work to support the government and the ruling parties and attack the opposition, whereas the opposition and local “private” media have worked hard to criticise the ruling parties and the government and to reveal corruption (a civil court judge, interviewee 35). Please note that this classification is true at the time of the interviews (March–December 2013).

<sup>195</sup> For example, see reports from:

- Human Rights Watch, available at: <https://www.hrw.org/news/2013/02/09/iraqi-kurdistan-free-speech-under-attack>
- Freedom House, available at: <https://freedomhouse.org/report/freedom-press/2013/iraq> and <https://freedomhouse.org/report/freedom-press/2013/iraq#.VcFYMH9RHIU>
- Reporters without Borders, available at: [http://en.rsf.org/IMG/pdf/rsf\\_rapport\\_kurdistan\\_irakien\\_nov\\_2010\\_gb.pdf](http://en.rsf.org/IMG/pdf/rsf_rapport_kurdistan_irakien_nov_2010_gb.pdf)

As explained in the previous section, as a “pressure institution”, civil society can motivate responsiveness and accountability on the part of elected government officials and restrict the state’s power (Bevis, 2003, p.6). In a democratic state, civil society must be independent from the state and politics. However, according to the majority of interviewees, most NGOs in Kurdistan are not independent, but are formed by the political parties for political purposes and are financially dependent on those parties or/and the government. For these reasons, many interviewees felt that NGOs in Kurdistan are dependent and work to achieve political agendas such as hiding perceptions of corruption and creating pro-government opinion in society, rather than democratic values, such as monitoring government activities and raising people’s concerns. They cannot therefore play a big role in the process of checks and balances.

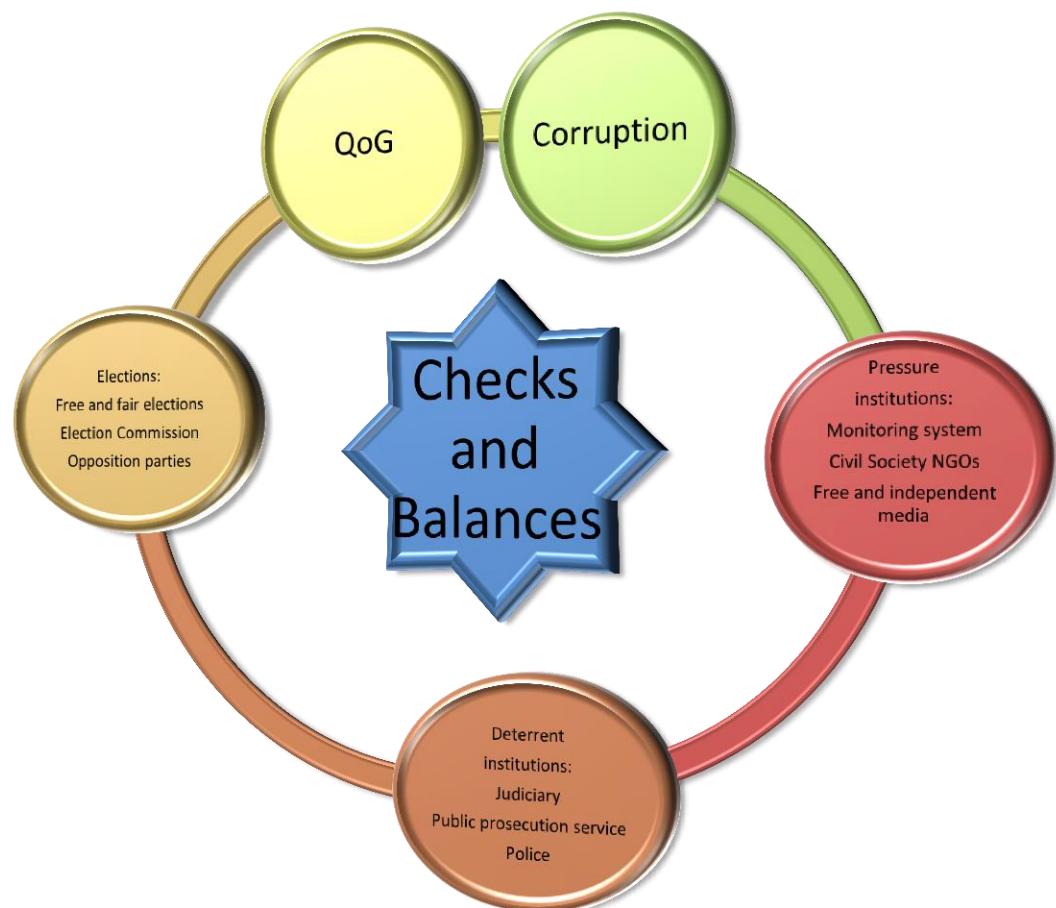
The above discussion explains why corruption levels are increasing in Kurdistan. As mentioned earlier, judges are recruited on the recommendation of politicians, which makes the judiciary more dependent. The government only supports those media and NGOs that are pro-government, making most of the media and most NGOs dependent. Not surprisingly, the more dependent the judiciary is, the less likely it is to investigate. The likelihood of the media investigating will decrease according to the dependence of both the media and the judiciary. The nature of political parties in Kurdistan is radically different from politics elsewhere. According to the majority of interviewees, corruption in Kurdistan is mostly related to politics, as incumbents misuse their positions for their own benefit and that of their parties and consider corruption as a means of maintaining their power and systems of political control. To achieve this, they are constantly trying to reduce the effectiveness of those institutions that enhance the process of checks and balances.

Most of the academics, opposition politicians and MPs interviewed believed that another factor affecting the process of checks and balances is that, for the past 24 years, the two main political parties have been sharing power and authority in government, and left no room for opposition parties to compete for power in elections. If honest politicians have equal opportunities to participate in the election as opponents, it becomes more attractive to punish a corrupt incumbent. In Kurdistan elections are less competitive, which makes it difficult for citizens to participate in political life and to run for office. The situation in Kurdistan makes it more likely that an incumbent will be re-elected despite being

corrupt. As a consequence, extracting rents is easier and less costly for the ruling parties and they can choose a higher level of corruption without worry (interviewees 1, 7, 17, 25 and 40). Furthermore, since 1992, the two main political parties have taken advantage of the wealth they have illegally extracted from public resources to improve their electoral opportunities. The patron–client relationship in Kurdistan is based on securing a citizen’s vote in exchange for favours such as public-sector employment, gifts, land and money. The patron in this relationship is a political party that provides services for its clients in exchange for votes (interviewees 1, 5, 6, 8, 9, 11, 16, 31 and 41). This patron, of course, contradicts the fundamental democratic principle of free and fair elections, challenges the rule of law, and undermines the principles of justice, accountability and legitimacy.

For the above reasons, free and fair elections and independence of the judiciary, the media and NGOs are crucial prerequisites for creating a competent public institution and granting public control over the state institutions in terms of human rights and democracy. To assure this model of democratic control, it is necessary to adopt effective, impartial and independent judicial mechanisms able and willing to participate in the process of checks and balances.

Figure 14: The theory of checks and balances



## **Chapter 9**

### **Conclusions, Contributions and Recommendations**

#### **Introduction**

This chapter summarises the core arguments of the study and outlines its findings. In particular, it focuses on recommendations about the reform process and the effect of implementing the constitutions in Kurdistan.

Ten years on from the approval of a democratic constitution (the Iraqi constitution of 2005), the evidence shows that the KRG has not been successful in operating it in practice. Despite having a large economy based on oil exploration and production, and being self-governing and politically powerful, corruption and maladministration are still prevalent. Notwithstanding the foregoing criticisms of the system of governance and the democratic process in the Kurdistan Region, this thesis argues that, since 2005, the KRG has made significant – though insufficient – progress in developing effective public-service ethics, transparency measures, access to information, civil society activities, the judicial system and free and independent media.

This study set out to explore a satisfactory answer to why the KRG has failed to deliver the constitution in a way that enables a good governance system to develop in the Kurdistan Region, and it also identifies factors that have become obstacles to the process of implementing the Iraqi and Kurdistan Region constitutions. Furthermore, the study aims to contribute to the adoption of a framework for the impact of democratic principles (as proposed by the constitution) on QoG. Consequently, the study also sought to outline the main shortcomings in the governance system. In addition, it attempted to explore the factors that support the application of the values in the constitution that may improve the governance system in the Kurdistan Region. The thesis took the Kurdistan Region as a case study with the aim of investigating the factors that influence the implementation of constitutions in other, similar regions. Moreover, the study may increase citizen awareness of QoG and help develop the democratic process, and can provide guidelines for politicians to take action in terms of reforms to improve the

quality of service for the citizen. Finally, I suggest a new, modern form of checks and balances and other recommendations for reform in the Kurdistan Region.

The study sought to answer the following two main questions:

- What are the factors that restrict the process of enforcement of constitutional law which could improve QoG in the context of the Kurdistan Region?
- What reforms process is necessary to deliver the constitution in order to achieve a better QoG?

The main methods used to examine the subject were: primary data; semi-structured interviews and secondary data; and available literature, reports, journals, government data and international organisations data. The data was analysed using qualitative methods.

### **Summary and Findings**

The main empirical findings are contained in Chapters 5 to 7 about corruption, factors that can affect the implementation of the constitutions, and the reform process. This section will synthesise the empirical findings to answer the study's five research questions.

- **What does the Iraqi constitution state about democracy and QoG, what are its objectives and institutions, and is it fit for purpose?**

An initial question could be whether the Kurdistan/Iraqi constitutions are good in themselves or whether the problem is rather with their implementation.

This study agrees with Cooray (1971) in suggesting that a distinction must be made between constitutionalism, where the constitution is practised as well as existing in theory, and sham constitutionalism, where the constitution provides for a great number of civil rights but is not implemented on the ground. Constitutional law only exists where a constitution is the supreme law of the country and where in practice it regulates the exercise of power by the various institutions of state and where all actions by public officials (from the top down) are in accordance with laws and regulations.



The Iraqi/Kurdistan constitutions embody all the most important elements for democracy and QoG. In particular, the constitutions provide for various principles that support promotion of democracy and improvement of QoG such as the rule of law, government accountability and an effective separation of powers, transparency, the public interest, human rights, freedom of speech and association, and free and fair elections. Thus, the constitutions and laws contain sufficient provisions for strong, independent and accountable governance institutions in the region.

However, when it comes to practice and with reference to the various democratic values mentioned in the constitution, this study argues that a very limited form of democracy has been practised by the KRG, even more limited than the narrow approach of “competitive elections”. Democracy in Kurdistan has been undermined because of the political domination and political influence on all state institutions, including the executive, parliament, the judiciary, military forces, the police and security services. Furthermore, politicians have great influence over the media and NGOs. This political domination over the state institutions and society leads to various symptoms of bad governance such as corruption, breaches of human rights, failure to uphold the rule of law, economic crisis and poor public services.

However, due to the breadth of the subject area in this study, there was no opportunity to thoroughly review whether these “model” constitutions can provide a legal environment for providing a better QoG in the Kurdistan Region. Although this thesis focuses on the implementation of the constitutions rather than their contents, the study suggests that clearer and more robust provisions would provide a better framework for the protection of good governance in Iraq and the Kurdistan Region than mere standard provisions.

The majority of interviewees argued that the constitutions must give stronger guarantees of accountability, transparency, judicial independence and observing the rule of law, coupled with enhanced implementation mechanisms, in order to restrain politicians from interfering in the functions of the various state institutions such as the judiciary, the police, military forces and government ministries – in particular the Ministry of Natural Resources. Some suggested that the Kurdistan constitution must reduce the power of the president and instead expand the power of parliament. Furthermore, the constitution

must give more guarantees to increase public participation in decision-making and provide a better control mechanism for democracy. In this way, the state can enhance the institutions of governance to become accountable, representative and responsive to the public's demands and can strengthen the process of checks and balances and the fight against corruption. Despite calls for a reform of the constitutions by the majority of political parties, the media and many of the interviewees, this study argues that the current constitutions generally cover the most fundamental democratic principles and the most essential requirements of QoG, but there is a problem with delivering the constitutions in practice, explaining the main factors that hinder their implementation. The theoretical case for the implementation of various types of democratic constitutions therefore needs to be revisited in order better to understand the impact of a democratic constitution on QoG and to outline the factors that restrict or limit the effect of the application of a constitution on the ground and how this affects the reform process in practice.

- **What are the factors restricting the process of enforcement of the constitution that lead to QoG in the context of Kurdistan?**

This study argues that the level to which democratic principles are practised and the period of exposure to democracy both affect QoG. Greater practice of democratic principles and longer experience of these practices can produce better QoG. In particular, in a transitional state like the Kurdistan region that has been through a long history of dictatorship and conflict, it might take more time for democracy to become established and produce a better QoG. However, this paper argues that the passage of time alone, without political will, a proper plan and a strategy for implementing the democratic values, is not sufficient to improve the democratisation process. Democracy can produce improvements in QoG, when democratic values are implemented in practice. However, this requires time, effort and planning to improve and modernise the state institutions and make them effective. This study therefore argues that in a post-conflict territory both the length of exposure to democratic values and the degree of implementation of these values are significant in determining the improvement of QoG.

One of the most significant outcomes of this study is that the failure to implement the constitutions and laws in the Kurdistan Region is mainly caused by the political cycle

that allows politicians (the ruling parties) to manipulate state institutions. Thus, the KRG is built on a structure of political domination that does not support accountability and transparency. The KRG is therefore unable to follow the provisions of the constitutions that are supposed to support the reform process in the government's institutional structures.

The political system of the Kurdistan Region is characterised by the existence of the symbolic political parties that were part of the liberation struggle, a lack of accountability and transparency, absence of fair political competition in elections, lack of public participation in the decision-making process, and unresolved disputes between the KRG and the central Iraqi government over land, oil and gas, accompanied by regular pressure from Baghdad.

Charron, Dahlström and Lapuente (2010) argue that the process of how a state was formed in the first place affects the characteristics of the state infrastructure, which in turn affects QoG and the independence of state institutions such as the judiciary, police and military forces and, finally, social outcomes such as corruption. From the formation of the KRG in 1992, the two ruling political parties in the Kurdistan Region promised to endorse the principles of democracy in their political programmes. In practice, however, the main aim of the political parties after liberation was initially to protect the liberated areas from attack by the former regime of Saddam Hussein. The *de facto* state of Iraqi Kurdistan was close to the theory of the “insurgent state” developed by McColl (1969).<sup>196</sup> The Kurdish political parties established an administration of an insurgent state; they focused on regulating the national revolution when it had been divided amongst different areas in Kurdistan, rather than establishing a democratic system in the region.

---

196 McColl considered that the capture and control of territory had become a “territorial imperative” for national revolutions. He suggested that “... modern national revolutions have accepted as a basic tactic [the] creation of a territorially based anti-state (insurgent state) within the state. ... The mechanism is the creation of territorial units complete with all the attributes of any legitimate state, namely a *raison d'être*, control of territory and population and, particularly, the creation of its own core area and administrative units as well as a power base in its guerrilla army” (McColl, 1969).

This study found that another significant reason for the state's failure to implement the constitutions was the fact that the Kurdistan Region had previously been ruled by various authoritarian Iraqi regimes over many decades. This had produced a situation that made it difficult build up a democratic culture including gender equality, respect and tolerance for all individuals and groups, spreading education among society, and popular participation in the decision-making process.

This thesis argues that long-predetermined historical and cultural characteristics have a significant impact on state institutions, so it is not just government policy that matters. Therefore, political culture and social life structure cannot be disconnected from the culture of that society. Current democratic practice in the region does not reflect the constitutions, but is created by the day-to-day practice of the political parties, in particular that practiced by the KDP and the PUK, and also the former Iraqi regime. In this context – as mentioned by scholars (such as de Castro Santos and Teixeira, 2014<sup>197</sup> and Younos, 2008) and many interviewees – it is difficult for a Western-based constitution to work in Middle Eastern countries, from both functional and institutional perspectives, because of differences in culture and political and economic systems. This study confirms what has been stated by United Nations Secretary-General Ban Ki-moon: “Democracy cannot be exported or imposed from abroad; it must be generated by the will of the people”.<sup>198</sup> In addition, some interviewees pointed out that democracy cannot be imported and imposed, rather it must be derived from society and develop in that society.<sup>199</sup> One interviewee (number 36) expressed this view, stating that “It is not very

---

197 de Castro Santos and Teixeira (2014) argued that military intervention, for example, can influence the liberal tradition and impose regime change, but democracy imposed by force cannot work without some degree of prosperity, change in authoritarian culture in society, public awareness of democratic principles and building democratic institutions.

198 Ban Ki-moon, Secretary-General of the United Nations. Message given on the International Day of Democracy, 15 September 2011. Available at:

<http://www.unis.unvienna.org/unis/pressrels/2011/unissgsm289.html> [Accessed on 12th August, 2014]

199 Besides Saddam Hussein possessing weapons of mass destruction, one of the excuses used by the US for the invasion of Iraq in 2003 was to bring freedom and democracy to the people of Iraq. After the fall of the former regime, due to growing criticism the US established the Coalition Provisional Authority (CPA) as an interim government to rule Iraq (El-Khawas, 2008, p.51). On 28 June 2004, the CPA handed over the power and sovereignty of Iraq to an (appointed) interim prime minister, who was given a roadmap with expectations to facilitate holding a national general election and adopt a democratic

easy to remove this culture like a T-shirt and wear democracy instead. We need time and effort to establish a democratic society and a democratic regime.” This research demonstrates that it is difficult for the existing democratic constitution to be implemented in the Kurdistan Region unless democratic principles take root in society. For democracy to stand on its own feet, educating people and creating a culture of respect for the democratic principles is therefore very important. This significant task should be achieved gradually by the media, NGOs, the political parties and the various government institutions.

This study also found that Kurdistan lacks a strong civil society, which has created an environment in which the connection between government and the public has become very weak. In particular, poor citizens are less able to influence policy-making in line with their interests, and cannot hold politicians accountable for their actions. Weakness in this relationship between the government and civil society in Kurdistan results in poor public services or service failure.

Another factor that facilitates the ruling parties’ influence over the various state institutions in Kurdistan is that the region lacked effective and active opposition parties at least until 2009. The opposition parties were weak and could not play a significant role in monitoring the government, and were unable to provide voters with an alternative in elections. This situation gave the ruling parties a chance to win the elections and misuse power without fear of being penalised by voters. Accordingly, they ruled the state according to their interests with no opposition to compete against them. It is thus reasonable to conclude that the lack of an active and trustworthy opposition is an obstacle to the reform process and the improvement of QoG.

The poor quality of government institutions may be explained by the absence of active monitoring institutions to observe the government’s activities in Kurdistan. The

---

constitution drawn up under an advisory team of US officials, which already specified the terms and dates for elections (ibid.). In other words, the coalition forces in general and the US in particular were key characters in that process. Thus, most of the transition process, strategies and plans that aimed to transfer authority to Iraqis were carried out according to US strategic interests, namely building a state which would be stable, democratic and friendly to the US (Hinnebusch, 2007).

integrity committee and the monitoring council, which are supposed to monitor the government's work, cannot play their roles because they are not independent.

Another factor that affects QoG in Kurdistan is the low quality of government institutions and shortcomings in the administrative structure. The KRG's administrative institutions are outdated and unresponsive because they were established nearly 70 years ago and there have been no significant innovations or improvements since then. The large size of the public sector combined with the sudden increase in government budget relative to GDP after 2005 means the government will be more vulnerable and may lose control, especially in the absence of effective management and modern administrative systems. This unreliable system gives politicians and officials opportunities to misuse power for their own benefit by giving them room for manoeuvre. In particular, due to a lack of punitive measures to deter corrupt activities or to encourage politicians and officials to follow the rules of accountability, they can simply behave corruptly because they can go about their business free from fear of prosecution.

Furthermore, the political leadership was not willing to pursue the procedures necessary to develop the institutions of governance and a stable political system to ensure further development and better government performance. Analysis of the interviews shows how politicians, in an attempt to achieve hegemony and control of the state institutions, planted the seeds of loyalty and obedience to the political leaders by filling important positions with those close enough to them to protect their interests – particularly in the judiciary, the public prosecution service, the ministries of natural resources and of finance, the security services, the police and the military forces. Thus, the main failing in the implementation of the constitutions is that the Kurdish revolution created a rule of political parties – insurgents – whereby they dominated the institutions of governance and used these institutions in the interests of the parties to strengthen their position and remain in power. This study shows that, due to existing political domination and a lack of political will for reform, the KRG has been able to conduct only very limited reforms in the structure of public institutions.

This study also confirms the conclusions of mainly qualitative studies (e.g. Gillespie, 2006; Fjelde, 2009) that oil resources increase corruption; in spite of rapid economic

development in oil-rich states, it increased inequality and misuse of public funds by politicians and government officials. This study also confirms the findings of Luciani (1990) that in states that rely on natural resources such as oil for revenue rather than on national taxation –such as the Kurdistan Region– ruling parties can easily use the wealth from oil to accommodate opposition and an independent media by granting personal privilege and rewards in exchange for political loyalty. Since oil revenue is related to large amounts of rent accumulating in the government revenue, it creates a financial resource for systematic clientelism – for example, giving public-sector jobs to people in exchange for political loyalty. In brief, oil-rich states can use political corruption to buy off rivals and attract loyalty from key segments of society. These problems are closely related to the existence of an environment conducive to corrupt behaviour within government institutions, caused by political interference in these institutions and improper public-sector recruitment systems that allow lower-skilled employees to be appointed in return for favours. This study therefore highlights the need for reform in the structures of public institutions, recruitment systems, the political system, the judiciary, and building an independent media and civil society in the Kurdistan Region. Through these significant reforms, the KRG can adopt a better system of governance that is able to generate greater accountability and transparency, and reduce the level of corruption in its public sector.

After investigating the public-sector recruitment system, this study hypothesises that the Kurdistan Region has yet to complete a transformation period to become what Ogburn (1930) calls a “modern society”. The tradition of tribal friendships and family ties still exists in society, and consequently favouritism and nepotism became the norm for recruitment and promotion in public-sector positions, influencing the officials’ attitudes on how to perform their duties. In addition, recruitment policies and regulations in the public sector cannot be considered as autonomous, but rather as a sub-function of the complex political and social culture of the entire system.

By analysing empirical data (the interviews, and reports by the World Bank and Transparency International), this study shows that the level of corruption in the Kurdistan Region is very high, having increased in particular after 2003 when economic sanctions on Iraq ended and the economy started to develop.

This study pointed out that corruption is a symptom of bad governance, at the same time feeding a continuation of a bad governance system. As explained earlier, corruption is essentially caused by individual greed and the desire for private benefits, and the knowledge that one will not be caught or punished for dishonest behaviour in an environment where there is opportunity for corrupt people to misuse power. In addition, the study found that the government failed to meet the essential criteria associated with political influence on government institutions, a dependent judiciary, media and NGOs, ineffective monitoring bodies, and a lack of transparency and accountability; these defects paralysed attempts to carry out checks and balances controls – as discussed in Chapter 7 – which are essential for good QoG and to combat corruption. It is also noted that the problems in governance appear not only when a government is corrupt but also when it is inefficient, non-transparent or unresponsive.

Despite the foregoing, the government is constantly facing calls for reform and to fight corruption and to put this on its agenda. However, this study found that there are some factors that have slowed the reform process in the administrative system:

1. Lack of a clear, precise plan for reform in the structure and functions of government institutions. One of the essential reasons for this is that the main agenda and strategy for reform as well as the extent of expected reform are all to be determined and supported by the political leaders, not the government cabinet. Thus, the lack of government power became an obstacle to public officials playing their part in improving QoG, due to the fact that they did not possess enough power, and were scheming to achieve their aims of reform (Wu, Ramesh, Howlett and Fritzen, 2010);
2. Lack of sufficient experience and skills, and development thereof, among high-ranking government officials. This is due to various problems: (a) the recruitment system is based on political loyalty rather than on merit; (b) insufficient skills development within the government institutions; (c) after every election, most people in high-ranked positions are replaced with new, inexperienced staffs because the winning parties share out official posts among their supporters, who are ineffective. For example, some interviewees referred to the fact that every four years, following the election process, the



government replaced senior officials with junior ones, allowing those in senior positions such as ministers to take retirement after only four years on 80% of their original salary, which allowed the government to satisfy more of their party members.

3. Favouritism and clientelism in training and the promotion system. For instance, according to some interviewees there is still discrimination and favouritism in selection for training courses offered by the government; sometimes managers do not send the employees who need to be trained, and there is a lack of good trainers, and a shortage of adequate vocational or training courses;
4. Questions surrounding the Kurdish nation. There are disputes between the KRG and Baghdad about the administration of oil and oil revenue. In addition, nearly one-third of Kurdistan's land is disputed by the central government, and there has been continuous conflict and tension between the two since the liberation of Iraq in 2003. Thus, there are no clearly accepted territorial boundaries of a Kurdish state, and no regional support for its political ambitions, which gives the government an excuse for not paying particular attention to reform. In particular, the KRG is economically dependent upon Baghdad and there is continuous tension with the Iraqi government over its share of the Iraqi budget. These unresolved issues with the central government have a negative effect on QoG and economic growth in Kurdistan.

This study argues that the Kurdish political parties have always given priority to the problems surrounding a Kurdish state, relegating the issue of constructing a democratic regime and improving QoG to second place, and this negatively affected the reform process in the region. The study therefore argues that settling the Kurdish dispute could help improve governance in various ways: first, it would encourage citizens in the region to demand better QoG and better public services; second, it would establish public security, which in turn can have a positive effect on QoG; and third, if these disputes are settled peacefully, there will be no excuse for the ruling parties to delay the reform process.

5. The war with ISIS. Since ISIS occupied the north of Iraq and continuously attacked Kurdish areas, and Shia groups dominated the Iraqi government, the

reform process has become difficult, because countries afflicted by civil war are more likely to fail to comply with the constitution (Law and Versteeg, 2013). Although there has been significant cooperation between Baghdad and the Kurdistan Region regarding the sharing of oil and revenues, for the most part this has resulted in failure. The Iraqi government regularly puts financial pressure on the KRG, which slows down the reform process and gives the ruling parties more opportunities to misuse power, as the ruling Kurdish political parties manipulate this economic pressure and ethnic and sectarian tensions to pursue their own interests.

This study found that corruption exists in Kurdistan and is mainly conducted by high-ranking officials and politicians due to their political influence, although it is also present among the lower ranks. Creating the political will to combat corruption therefore becomes an important issue and reform should be undertaken at the top of the governance system. This study also found evidence that some forms of corruption in the Kurdistan Region are systemic, making it more difficult to fighting corruption. The study suggests some specific methods for combating systemic corruption, which are distinct from the non-systemic variety.

This study found no argument to support the view that certain factors discussed in the literature are the real causes of corruption in the Kurdistan Region. These include arguments relating to poverty, low wages, gender and religion, none of which can seemingly be considered as causes of corruption in the region, particularly in recent years. For instance, low wages accompanied by a poor economy, poverty and inflation were negatively correlated with the level of corruption between 1991 and 2003. This study suggests that poverty is not a cause of corruption, at least after 2003 when officials began to receive fair wages and the economy was growing. Rather, corruption is motivated by human greed combined with an environment that allows corrupt people to misuse their public positions for personal gain.

### **Can Implementing the Constitutions Improve QoG in the Kurdistan Region?**

With some exceptions, discussed in Chapter 5, this research shows that effective implementation of the constitutions can improve QoG and facilitate the reduction of corruption, as its fundamental principles are based on public participation, the rule of law, accountability and transparency, effectiveness and efficiency (Boyne, 2010; Powell and Lewis, 2009). Evidence from several studies, including Charron and Lapuente (2010) and Rothstein and Teorell (2008), and also this study, seems to indicate that the democratisation process (as emphasised by the constitutions) would be supportive in introducing good laws and regulations that, if implemented adequately, could help improve QoG. The main factors that support the implementation of the constitutions and improving QoG include: the promotion of democratic principles, transparency and accountability in the public sector, equality of citizens, freedom of expression, free and independent media, the right of access to information, effective government institutions (in particular monitoring bodies), upholding the rule of law, a fair and independent judicial system, and independent national military, security and police forces that work in the interests of the people rather than the ruling parties. However, this requires depoliticising public institutions, establishing a merit-based system for recruitment in the public sector and developing methods of citizen participation in the decision-making process.

This study also provides a conceptual theory for the interrelationship between application of constitutions and QoG (as illustrated in figure 15 below). This shows that the application and daily practice of the principles of democracy (as mentioned in the constitutions) – such as free media, freedoms, transparency, accountability, the rule of law and public participation – have a positive effect on QoG. Although the principles of democracy are universal, the *forms* of democracy vary according to internal and external factors. In particular, special attention has been given to the various factors that may have a negative effect on the democratisation process and QoG in the Kurdistan Region, such as:

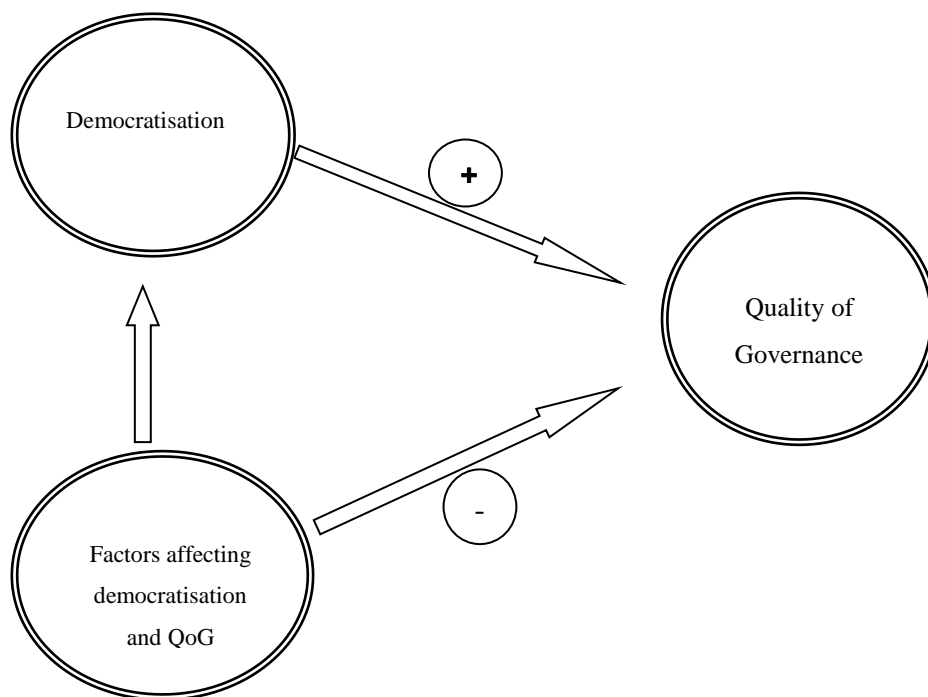
1. Domination of power by two ruling parties since the beginning and continued gridlock in the decision-making process as a result;
2. the absence of active opposition parties;
3. the structures and characteristics of political bargaining, which divide the government on a 50–50 basis between the KDP and the PUK;

4. conflict, war and violence in the region;
5. natural resources;
6. the culture of dictatorship in the region;
7. the lack of genuine will for reform from the political parties (Latif, 2010).

All these factors are involved in the existing poor QoG in the Kurdistan Region.

Thus, implementing the principles of democracy in the Kurdistan Region can improve QoG, but the effective implementation of these principles in turn depends on factors that affect the democratisation process and QoG, and these factors can slow down the process. However, in the short to long term, legitimacy in transitional states can only be established through free and fair elections in an environment where pluralism and freedom of expression are guaranteed. However, where the state is weak it is hard to maintain minimum standards for electoral procedures and opportunities for real public participation. Furthermore, during times of violence and war elections certainly weaken reform processes (Ottaway, 1997).

Figure 15: Conceptual framework for the interrelationship between application of constitutions and QoG



However, while it is generally valid to say that democratic government is the best guarantor of QoG, this statement might need modification – particularly in Middle Eastern countries. Although general elections and representative governments are essential, they are not sufficient for a good system of governance. For a government to be called “good” it must also be accountable, transparent, participatory and responsive to the demands of the people, and must put adequate emphasis on the people’s entitlement. Our evidence shows that in Kurdistan the government is constrained by powerful elites and special political interest groups that dominate the public revenues, the police, the security forces and many other state institutions and misuse these institutions in the interests of themselves and their supporters. Hence, this study has used empirical findings to show that democratic constitutions and good laws are significant but not an end in themselves. The theoretical arguments for this justification suggest, however, that, without effective existing mechanisms and impartial, professional and competent bodies to enforce the constitution and the law through a transparent mechanism and accountable bodies, they will remain ineffective.

- **What process of reform is necessary to deliver the constitution in order to achieve a better QoG?**

This study attempts to show how QoG can be developed in a transitional state and makes some essential recommendations for the reform process in post-conflict societies such as the Kurdistan Region. However, the study does not make detailed recommendations for reform and improvement of QoG, as this would require an analysis of various corruption cases that could be the subject of future research.

In a society that has been through war and violence, rebuilding the state institutions is a massive task, particularly in a region like Kurdistan where these completely collapsed. Thus, in most transitional states, there is a period of chaotic transition lasting a number of years. The political parties and the government must play significant roles in rebuilding the state. Since the institutional and human resources required in that reconstruction have often fallen victim to violence, states in transition like Kurdistan

need the assistance and cooperation of the international community to supplement internal efforts.

The KRG must undertake serious institutional reforms in the various areas that have been identified as factors in improving QoG. The crucial point is to build transparent, responsive and accountable governance institutions that can support a settled and stable state. Politicians, civil society groups and all other state institutions must work together to build an administrative system capable of producing a good QoG by providing a peaceful transformation from the various conflicts they may have faced.

As discussed earlier, many writers and the majority of interviewees criticise the government for being politicised, non-transparent, ineffective and unresponsive to citizens' demands, which should lead us to conclude that the government's way of working and the administrative system need to be changed. An efficient, active and democratic government that responds to the public's needs is the best guarantor of social justice and public participation in the decision-making process. The discussion about the "reinvention" of government is about effective and responsive governance.

To meet the demands of the public, the government must reinvent itself. Innovation under the Kurdistan/Iraqi constitutions enables a new model of government to be built that can address the weaknesses of the government that resulted in corruption and lack of public services. This study argues that it is in the best interest of the ruling parties themselves to address these problems, rather than to wait for innovations to come through a slow, evolutionary process.

This study presents evidence that nepotism and favouritism towards family and friends in the Kurdistan Region is to some extent preserved by citizens because it is socially accepted. Furthermore, there is significant political influence in the recruitment of officials in every state institution. Consequently, when the government attempts to undertake any reform in the recruitment system, it will not be enough to formulate new regulations and policies, and particular attention should be paid to the treatment of political and social culture by spreading public awareness in the media, the education system and NGOs. This study also found strong evidence to support Foster's (1981)

suggestion that changing social attitudes requires an in-depth strategy and a long period of time, what he called a “reconciliation period”.

This study emphasises that civil society has a significant role to play in promoting democracy and QoG. Civil society can increase political participation, deepen democracy on a more local level, monitor political representatives, and hold the state accountable. Civil society can also participate in the reform process through restricting the power of the state (Bevis, 2003, p.6) and supporting the state in fulfilment of its function by facilitating political and social interaction and encouraging citizens to participate in economic, social and political activities, and also to create social pressure on the state in the decision-making process that helps to produce better service outcomes (Khan, 2005). Civil society is therefore seen as an increasingly important agent for promoting good governance like transparency, effectiveness, openness, responsiveness and accountability.

This study therefore suggests that the government should support the various independent institutions of civil society and empower them to participate in the policy-making process. This can help to amplify the voices of the poor in the Kurdistan Region, coordinate coalitions to overcome problems of collective action and demand greater service accountability. However, this study argues that this is not an easy task; the government and politicians may not be willing to relinquish their power easily by encouraging civil society to expand public participation and its influence upon them. But social forces must be created that would compel them to countenance sharing power. An essential part is, therefore, social mobilisation, whereby consistent though gradual effort is required to establish, organise, strengthen and empower civil society, so that they can, first, increase in number and, second, convert their numerical strength into genuine bargaining power. Accordingly, this study argues that good government should create civil society and that civil society can encourage good government through the government’s accountability to society.

Corruption is considered both an outcome and a cause of bad governance, so the government must have a strategy for fighting it. Given the large amount of capital circulating in transitional societies, fighting corruption is crucial from the beginning (U4, 2004). If combating corruption is not given early and clear priority, rent-seeking will

replace reconstruction and political and economic progress will even consolidate patronage and nepotism, which may undermine the entire governance system, deter foreign investment, limit economic development and encourage black markets (CSIS/AUSA, 2002).

This study argues that mechanisms for the enforcement of the constitutions are closely linked with a governance system governed by the rule of law. In particular, the rule of law is the core principle in the reform process, without which reforms will be in vain. As the crisis in governance is mainly related to political domination and ignorance of the rule of law. Simple tinkering around the edges is therefore not enough to improve QoG; rather, political influence needs to be reduced, all relevant laws and constitutional provisions revisited, and the principle of the rule of law adhered to. In addition, this study argues that corruption cannot be tackled effectively through one-off measures or political campaigns, which often have a party-political flavour. Instead, the KRG must work to fight corruption on various levels and establish strong control mechanisms. Important elements of this process are:

1. Learning lessons from successful experiences of other countries. For example, in Singapore, genuine political will on the part of the government led to a significant reduction in the level of corruption in the public sector (Neo and Chen, 2007);<sup>200</sup>
2. Parliament to enact a new anti-corruption law to address existing deficiencies in the law and regulations;
3. By adopting and implementing clear and effective procedures and policies, create a strong political system able to combat corruption and to provide political conditions that foster a strong government keen to take all necessary steps towards improving QoG (Singapore has earned such a reputation);
4. Strengthening the checks and balances mechanism through, first, separation of powers between the legislature, executive and judiciary, and, second, holding free and fair elections and ensuring free media and an independent judiciary;
5. Establishment of a more resilient administrative system, able to use new technology

---

<sup>200</sup> Singapore has been ranked as the fifth or sixth country for transparency and low level of corruptions; this means that Singapore is considered among the top ten countries in the world that successfully established a good governance system (Transparency International 2011–14).



and an electronic-government platform, which can reduce errors and opportunities to conceal corrupt activities;

6. Establish a modern system for recruitment of public-sector employees based on merit and professional experience rather than favouritism and clientelism (UNDP, 2015);
7. Establishing new institutions with clear aims for improving QoG and fighting corruption (ombudsmen, special inspectors for corrupt practices, special corruption court, etc.). Many Western countries employ new institutions with special skills and operate delivery mechanisms in their process of reform to achieve better governance performance (Salamon, 2002);
8. An independent judiciary and effective public prosecution service;
9. Establishment of a good networking mechanism between the various government organisations on one hand, and between them, the media and civil society organisations (NGOs) on the other. This can guarantee greater transparency and accountability in the various public sector institutions (UNDP, 2010);
10. Adopt evaluation mechanisms in the public sector to collect feedback and bright ideas from service users; this process can give a clear understanding of shortcomings and help future government plans (Howlett, 2009).

One might argue that these recommendations are a long-term process, and reform and tackling corruption by their nature are long processes and require time, particularly in a developing nation where there are many factors that reduce the performance of public institutions such as internal conflict, war and shortages of economic and human resources (Crosby, 1996). However, this study argues that, if the ruling parties are willing to undertake genuine reform, the KRG can make the process faster by using different techniques and tools. For instance, the government can reduce the level of corruption in the public sector by encouraging an independent and effective judicial system and police force, an independent media and NGOs, and by introducing a strong recruitment system that allows citizens to be appointed only on the basis of merit, experience and skills; such measures can stop the cycle of corruption.

Furthermore, this study suggests that, in the course of the reform process, the KRG should develop and strengthen the integrity system through the followings measures:

1. Introduction of effective and achievable laws and regulations in the field of transparency and accountability to fight corruption. Examples include regulations that oblige civil servants to give reasons for their official decisions, a freedom of information law, and a law to protect “whistle-blowers” so as to enable appropriate “public interest disclosure” of wrong-doing by officials;
2. Introduction of practical management approaches to help the public sector deal with cases of corruption more effectively;
3. Introducing effective ethics audits to provide scrutiny of various public management processes, such as recruitment of public-sector officials, tendering and financial management;
4. Working to produce a culture of morality and ethics in society, through the media, the education system, NGOs and religious leaders;
5. This thesis suggests that particular attention should be paid to ethical values and threats that undermine the integrity and commitment of the public sector, and that consideration be given to political and management responses to the integrity system. This could include the provision of professional training for public-sector employees in general, as well as for specific administrative performance in various areas such as a code of ethics, a mechanism for the application of ethical principles, and the appropriate use of official power. For example, the KRG might take a lesson from Singapore, where the government successfully improved the functions of its institutions by preparing many skilful employees for different public fields through several universities and colleges (Singapore-MOE, 2012). Through the training process, the KRG can adopt a better governance system in three ways: first, public servants will develop more skills required for performing their duties; second, providing sufficient and adequate training for employees can increase accountability, transparency and ethics among public servants; and third, more professionalism and skills produce better outcomes for less cost and will save money and time for the government (UN, 2009).
6. Introducing a proper mechanism for dealing with external and internal complaints, and procedures of redress.

Although the above recommendations would help develop the system of governance to make it more responsive, effective and independent in practice, this study found

evidence that the above targets cannot be achieved without 1) reducing political influence on the institutions of governance through the establishment of effective and practicable laws, regulations and policies to reflect the constitutions, and 2) identifying practicable and viable methods through which these can be implemented in the Kurdistan Region.

### **Reform and Modern Forms of Check and Balances**

This study concludes that the institutions of government in the Kurdistan Region do not create appropriate checks and balances. This means that power is not distributed between the three branches of government in accordance with the constitution, which is important for democracy and QoG. The doctrine of separation of powers and the system of checks and balances are necessary for the Kurdistan Region, as the aim of democracy is to provide effective state institutions that enable the state to protect the individual liberties of citizens.

The principle of separation of powers allows the state institutions responsible for each power to be established in a form that complies with the specific nature and demands of each organisation, and may lead to greater professionalism among officials. Hence, the combination of the three authorities in a single body may create unprofessional and weak governance institutions. The separation of powers between the three branches of government can restrict broad discretion by government officials; each branch is obliged to be accountable to the others so as to prevent abuses of power, protect individuals and accordingly improve QoG (Barnett, 2013). This study therefore considers separation of powers as an important factor for securing the implementation of the constitution, improving the system of governance and controlling abuse of power in the Kurdistan Region.

This thesis also found that the biggest challenge for the KRG is not only the separation of powers between the three branches of government, but rather the separation of the political parties' power from the government branches and stopping political influence over these institutions. However, the separation of powers in this way is no easy task. Political domination can be reduced only through establishing a modern mechanism of checks and balances. To this end, this study develops the theory of checks and balances

originally produced by Waisman (2008) in her research on corruption. This research adopted the theory so as to show that it is not only relevant to corruption but also closely connected to the implementation of democratic constitutions and the entire governance system.

This study shows that the Kurdistan/Iraqi constitutions provide all the necessary elements for checks and balances mechanism, such as free and independent media, active civil society organisations, separation of powers, an independent judiciary and free and fair elections. Notwithstanding the constitutional guarantees, for checks and balances to work properly, the state institutions must (a) create an environment in which free and fair elections can be held, (b) support equal opportunities for functioning political parties, and (c) allow independent and active media to operate freely.

The results of bad governance are less likely to flourish where the media, NGOs and the judiciary are active and capable respectively of detecting, investigating and punishing officials who misuse their power, and where opportunities for maladministration are limited by effective laws. In addition, democratic principles and the electoral process can create obstacles to bad governance where people are given free choice to vote out underperforming incumbents. This study illustrates that three categories of institutions have an effect on the prevalence of the symptoms of weak/bad governance – the judiciary, the media and NGOs – complemented by the electoral institutions. Strengthening any of these institutions increases the effectiveness of the others, which will improve QoG in the Kurdistan Region.

The decision by officials whether or not to act according to the guidelines and regulations or behave corruptly depends, as for any other illicit activity, upon a combination of the scale of the potential gain, the probability of detection and the scale of any punishment; harsh punishments can discourage maladministration only if there is an increased probability of penalising those officials that misbehave and/or act in their own interests. It has been proved both that a free and independent press can play a significant role by revealing failings within the institutions of governance, thereby acting as a deterrent to bad governance, and that low levels of freedom of the press are associated with weak/bad governance in general and high levels of corruption in particular (Sidiq, 2011).

Another significant finding of this study is the circle of corruption; where politicians from the KDP and the PUK take control of the government and accrue wealth through corruption, they try to invest this wealth and maintain their power by reducing the effectiveness of the system of checks and balances and winning re-election. To achieve this end:

- They did not adhere to democratic principles;
- Contrary to what is required by the constitutions and regulations, the ruling parties have been accused of buying the votes of ordinary citizens by illegally granting them benefits such as recommending those loyal to them, their family and friends for positions in the public sector; and of granting benefits such as residential and commercial land, social security benefits, government loans, government contracts or various government licences in exchange for political loyalty;
- Key public posts such as in the military, security services, police force, school management, prosecution services and judiciary are recruited on the basis of relationships and political loyalty, rather than merit and equal opportunity. These people have taken advantage of the existing system to enjoy a higher level of privilege, authority and income. In order to maintain their livelihood, these people do not support improvements in the system of governance, but rather reject a process of change, as they know that any reform will put their interests at risk;
- They support media and NGOs favourable to them while penalising the free independent media and NGOs.

This thesis shows that in the Kurdistan Region there is a lack of supervisory mechanisms and external controls on government institutions, and in particular a lack of transparency and availability of information to the public and the independent media, thus enabling officials to be negligent in performing their duties and to behave corruptly with impunity. As a result, public-sector employees in many fields are likely to be incompetent and unable to do their jobs in a professional manner because they were not recruited on the basis of experience and qualifications. They will be under the influence of the politicians who helped them to get their positions, whose interests they must therefore protect (Karim, 2010b). Dependent media and NGOs will choose not to report

corruption involving officials and politicians. Independent media and NGOs will become weak and unable to reveal and pursue corrupt activity. Police, public prosecution services and judges will become dependent and less willing to investigate and/or convict the corrupt elites. Consequently, citizens' lack of reliable information about bad governance, failings in public services and the level of corruption makes it easier for dishonest incumbents to win re-election despite providing poor public services and extracting rents for their own interests. Neglecting the public interest and corruption thereby becomes less costly for negligent/dishonest incumbents, and subsequent elections are not an effective instrument for controlling them; as a result, they choose not to make any effort to carry out reforms or to fight corruption.

Voters can be divided into three groups:

1. Those who became loyal to the ruling parties in return for illegal benefits; these people vote for the elites despite knowing that they are corrupt (this group is likely to be the majority of the ruling parties' voters);
2. Those unaware of the exact scale of corruption and who has been involved (due to misrepresentations by the media);
3. Those who vote for opposition parties or do not vote at all; these people oppose the ruling parties because they know about corruption and/or are supporters of the opposition.

Thus, the ruling parties receive the votes of their supporters and people whose loyalty they control, as well as those who know about them being corrupt; they also know that they will not be caught or punished for corrupt behaviour – thanks to partial police, media and judiciary – and that they would win re-election despite being involved in corruption. Moreover, they have opportunities to continue to accrue and protect their wealth and power. All this enables the cycle of corruption to continue.

As already explained, the Kurdistan political system has created an environment for exchanging favours between citizens and the ruling parties. In this way, a large number of citizens have also become part of this phenomenon of corruption by voting and supporting the corrupt elites in return for the advantages mentioned above (USAID,

2003). As a result, in the Kurdistan Region the corruption of the ruling elites is buttressed by a culture of societal support for such a poor situation.

A crucial feature of the judicial system should be its ability to limit political power in both executive and legislative actions according to constitutional values and the rule of law. According to the literature, as confirmed by the interviewees, improving QoG in the Kurdistan Region is closely connected to the effective implementation of the constitutions in practice, which requires a well-functioning independent judicial system based on the principles of the rule of law. However, the practice in the Kurdistan Region has not followed this model: on the contrary, the courts have become instruments used by politicians to their own advantage, in particular in cases of a political nature or where powerful politicians intervene. This can be clearly seen in the adjudication of disputes where citizens' rights conflict with the interests of high-level politicians and officials. This study therefore suggests that establishing and strengthening an independent judicial system in the Kurdistan Region in this form is a political issue. Consequently, any effective reform will not be successful unless procedures are introduced to ensure improvements in the recruitment of the judiciary; in particular, the top positions should be filled on the basis of merit rather than clientelism and favouritism. The political will to transfer more power to the judiciary is the central issue.<sup>201</sup>

For accountability to achieve its aim in a democratic society, unelected state employees, including those in the police, the military and the security services, must be held accountable to elected officials. In addition, the public must have the right of access to information about the activities of government institutions, and the right to petition government, parliament and the courts, and even to seek compensation. Furthermore, accountability is underpinned by the principle of the rule of law: that the power of each branch of government is defined and determined by the law and the constitution, as enforced and interpreted by an independent judiciary. To achieve these aims, there must be an actual division of power between the three branches of government, or the system of checks and balances between the powers cannot be maintained.

---

201 Among other factors that can help the judiciary to become effective are: provision of training for judges, public prosecutors and court staff, and encouraging free independent media, civil society and human rights organisations so that they are able to play their role as watchdogs and as a "fourth power" alongside the executive, parliament and judiciary.

The proper functioning of a constitutional democracy requires the development of formal and informal institutions as well as cultural and social environments. Moreover, when mandates and procedural rules remain unclear, so do the criteria according to which the state's audit and inspection bodies can assess officials' decision-making; many other institutions cannot carry out checks and controls, as these are perceived as posing obstacles to the speedy implementation of government reconstruction policies.

Finally, greater accountability in financial management should be achieved by introducing a more transparent financial system, a more effective audit system, and more active oversight by the independent media and civil society – and voters, by punishing corrupt incumbents at the ballot box.

Until the beginning of 2015, Iraqi Kurdistan was better able to develop a good governance system and become independent. But a number of security and economic crises have made it more vulnerable, with less capacity to develop its own state or to declare independence. This research argues that the future of the KRG's capacity-building mainly depends on four issues: (1) economic circumstances; (2) the consequences of the war with ISIS; (3) the future of disputed areas; and (4) democracy in the region. These are explored below.

### ***Economic problems***

Economic development is one of the main factors that can increase the state's capacity to perform its duties properly and improve public services. In early 2014, the Iraqi government began to cut off the Kurdistan Region's share of Iraqi national revenue that it was supposed to send under the oil-sharing agreement. This is because the KRG was not able to reach the level of oil exports required by Iraq's central government and because the KRG does not collect internal taxes and customs fees to meet Baghdad's demands. As a part of its plan to achieve independence from Iraq, in March 2015 the KRG took a decision to achieve economic self-sufficiency by 2016, by producing and selling its own oil. However, the Kurdistan Region does not yet produce enough oil to replace the approximately \$12–15 billion a year the KRG used to get from the central government. Thus, the Kurdistan region is unable to become economically self-



sufficient, mainly because the central Iraqi government does not allow the KRG to sell its oil directly. Moreover, economic dependence has been seriously affected by the price of oil – which has fallen from \$120 per barrel to (at one point) \$25 – and the consequent reduction in the KRG’s revenues prevented it from implementing the self-sufficiency plan and economic growth (VOX, 2004).

On the other hand, fighting ISIS is placing an extra burden on the Kurdistan Region’s economy. Apart from the cost of the war, the World Bank estimated that the KRG required \$1.4 billion in further spending in 2015 due to refugees and displaced people in the region (World Bank Report, February 2015).

All the above factors seriously reduced the KRG’s financial capacity. One MP, who is a member of the parliamentary finance committee, stated that the KRG’s debt reached \$17 billion in 2015 (Ekurd Daily, 2015). As a result, by May 2016 the government had been unable to pay public-sector salaries in full for eight months. These financial crises forced the KRG to return to the Iraqi government in February 2016 to seek financial help, which shows that in current circumstances it is unlikely that the KRG could stand on its own feet in financial terms, and still struggles to remain with the central government.

Apart from the economic crisis, as mentioned in Chapter 4, the KRG has recruited a large number of public employees (many of them “*bindewar*”), illegally retired many on large wages, and given many others social benefits for their political loyalty, contrary to law. All this created additional burdens, contributing to the government’s inability to pay public employees and social welfare from June to November 2015.

To develop the economy, the KRG needs to look at alternative sources of revenue generation. Examples include developing agriculture, attracting foreign investment for development and business in the region, paying attention to the banking industry, regulating taxes and customs and, more importantly, cutting public-sector spending and rooting out various forms of corruption.

Even if the KRG develops different sources of revenue generation, however, this will not bring an end to its economic difficulties. For example, getting products to foreign markets will still remain a problem, because the main route to the oil markets is via

Turkey. It is therefore very important for the Kurdistan Region to build and maintain a strong relationship with Turkey. In the event that this relationship breaks down and Turkey does not allow Kurdish oil to flow via its territory, the KRG must return to Baghdad, agree to the conditions imposed by the central government, and export its oil via Iraq and accept the 17% portion of Iraqi revenue – even though this has not been a workable option in the past and reduces the chances of becoming independent (Katzman, 2011).

### ***The war with ISIS***

Before the conflict with ISIS, the Kurdistan region underwent democratisation, economic development and state-building. However, now the priority is the fight against ISIS (Salih, 2015). The Kurdish campaign against ISIS is not only about defeating an extremist enemy, but is also considered an issue of national liberation and fighting for an independent state in both Syria and Iraq, which both consist of various sects, faiths and ethnicities that find it hard to get on with each other.

Although the security and economic costs of the war against ISIS in the Kurdistan Region have caused the KRG almost to run out of money, in reality the Kurds can benefit greatly from this war if they can manage to record a victory over ISIS. One clear sign of progress is the seizure of Kirkuk by Kurds, which could significantly increase the chance of independence in the long term as well as increasing the KRG's capacity to export oil and gas. However, the Iraqi central government remains keen to keep Kirkuk under its control as a major source of oil revenue (VOX, 2004).

Although the Kurdish Peshmerga is currently considered the only force able to defeat ISIS on the ground, they cannot defeat ISIS without (1) international (in particular US and UK) airstrikes, (2) increased provision of both weapons and military training to the Kurdish troops, and (3) an infusion of financial support.

### ***The future of disputed areas***

These include Kirkuk, Khanakin, Jalawla, Dubis and Sanjar. The oil-rich city of Kirkuk is particularly important for Kurds in order to develop the region's economy and to establish an independent state, and because this strengthens Kurdistan's position in both

economic and political terms. Even after ISIS took control of Mosul in June 2014, Kurds retained control of most of the disputed area, creating what were called “facts on the ground”. But the Kurds should not rely on this physical control alone as a way of retaining these disputed areas; rather, they should have a strategic plan to increase the Kurdish population in these areas by returning Kurds relocated elsewhere by the former Iraqi regime, in order to win any future referendum (Salih, 2015).

### ***Improving democracy in the region***

As discussed earlier, the Kurdistan region has been dominated by two big political parties for the last two decades. These parties unlawfully utilised the power and resources of the region for personal and political advantage. This negatively affected the government’s capacity and the democratisation process. This study therefore argues that genuine reform can only be conducted through the proper practice of democratisation and reducing political domination. In this way, the KRG could increase transparency and accountability in the governance system and achieve greater reform.

### **Contribution of the Study**

How does this study contribute to knowledge in this field? What implications does the study have in practice for improving QoG in the Kurdistan Region? Finally, to what context can this research help future research in the area of implementation of constitutions and the law?

As has been previously outlined, democracy and QoG has been the subject of an abundance of scholarly literature. However, the literature is dedicated to democracy and QoG in general terms. Attention has been mainly devoted to analysing the influence and importance of constitutional law, democratic transitions and the impact of democratisation on QoG. Some studies show a strong impact of democracy on QoG; others show none. Furthermore, previous studies have focused mainly on the theoretical point of view, with little attention given to the practical factors that either support or restrict the implementation of the democratic values mentioned in most modern constitutions. This study contributes to the adoption of a framework to fill this gap in the literature – first, through clarification of some of the ambiguous findings in the existing

literature regarding the relationship between democracy and QoG, by explaining the practical impact of democratic principles (as proposed by the constitution) on QoG; and second, by outlining both the supporting and restricting factors on the process of implementing the constitution on the ground. It could therefore be said that this research provides many ideas and data for further study aimed to explore in depth the shortcomings in the system of governance and how to reform it.

This thesis is a broad research study on the enforcement of the constitutions and the quality of governance. The study relates to state institutions that together employ more than half of the total workforce in the region (700,000 out of 1,100,000). It uses a sample of 41 in-depth interviews among the groups most concerned – 15 MPs (15% of the 100 elected parliamentarians, representing 15% of the population), ten high-level politicians, six academics, five high-level government officials and five judges – which gives our study a high degree of representativeness and validity. Thus, the methodology in this research is designed in a way that not has been previously used in this field of work, in particular in the Middle East. Furthermore, although there are some recently published studies on democratisation, corruption and QoG in Middle Eastern countries, including Iraq,<sup>202</sup> while several writers have aggregated common and contrasting trends at country level, such studies lack analysis of state-specific detail and influencing factors such as regional constitutions and political problems specific to a state like Kurdistan. However, these studies are conducted in the context of sovereign countries, and do not pay significant attention to post-conflict transitional democracies in the Middle East.

Notwithstanding the limitations mentioned in the previous section, the thesis stands as the first in-depth research in this field that, first, qualitatively investigates whether the current Iraqi/Kurdistan constitutions include provisions that support and improve QoG, and second, by examining the effect of the implementation of democratic constitutions in a region that has gone through conflict and violence, attempts to set out the factors that form obstacles to such implementation, and puts forward recommendations for the improvement of QoG in the light of the constitutions.

---

202 See, for example, Kelly (2010), Zebari (2013a) and Jawad (2005)

Hence this thesis advances literature in this field by providing an analysis of the implementation of democracy, and it has value in and of itself, because Kurdistan serves as an interesting subject for this form of investigation, particularly following the collapse of the regime of Saddam Hussein in 2003. It is generally more appropriate to investigate the role of democracy in improving QoG in this type of environment, which has rapidly progressed into a democratic society, to understand the main barriers to implementing the constitutions and to explain why the Kurdistan region remains categorised as a semi-democracy or a society in transition, despite having democratic constitutions and a 24-year-long struggle to practice democracy.

This study also pays particular attention to the forms and causes of corruption and refers to the main strategy for fighting corruption unique to Kurdistan as an example of a state in transition. This makes the study topical and relevant to the development of constitutional democratisation and QoG in transitional states. The study can assist the KRG in adopting new and more effective policy measures aimed at reforming procedures in the region. Furthermore, the study increases citizen awareness of QoG, and develops the democratic process and grass-roots monitoring that can provide incentives for politicians to take action in terms of reforms to improve the quality of service for the public.

Further, this research contributes to better understanding of the failings in the system of governance in the Kurdistan Region by investigating how democratic principles can be secured and reflected in state institutions, where political forces and collectively oriented culture play significant roles in effecting appropriate implementation of the constitutions and laws. The study also suggests a framework for a reform process in post conflict state through the modern system of check and balance.

### **Recommendations for Future Research**

In most studies, while answering the research questions, many new ideas will appear that lead to the discovery of further research in the field.

Although this thesis addresses the questions set for this research, the design and scope of the thesis cannot address the scale of this debate, which is extensive and multifaceted

even in the context of the Kurdistan Region. Due to the breadth of the research area, this study mainly focuses on the implementation of the constitutions, provides the key factors that affect QoG and suggests a framework for reform. This research does not provide a theoretical legal argument, or give details of every factor that affects QoG or detailed suggestions for reform. The findings of this study suggest some major areas into which future research should be extended. In this context, the legal argument in various areas of constitutional law and QoG allows for further assessment of each topic. In addition, it is suggested that each factor affecting the implementation of constitutions and laws should be studied separately in more depth. For instance, this study found that a major problem with governance is created by oil production, and it is strongly recommended that a specific case study be conducted in this field in order to understand the effect of natural resources on both QoG and democratisation in the Kurdistan Region and to improve the management of oil products.

It is also recommended that research be conducted particularly to investigate the level and quality of the policies and regulations of the various government institutions, to examine whether they reflect the constitutions, and whether they are capable of producing good governance.

Future research might build on these research findings by engaging in a comparative study in order to contrast the study with other post-conflict states, such as FYR Macedonia, Lebanon, Egypt, Libya and Tunisia. A cross-country comparative study could examine the outcomes for QoG that depend not only on the specific location, but also on the construction of traditions of culture and institutional traditions. Comparative studies in this field may give more opportunities for providing better generalisation of the findings.

The experience learned from this research reveals that the qualitative method is very reliable and useful to this kind of study. It is therefore recommended that future research in the above field would benefit from qualitative research approaches (e.g. qualitative interviews with experts and practitioners).

Exploring the above points in future research may facilitate a better and clearer understanding of how to find an adequate and effective method for the enforcement of constitutions and laws, and overcoming obstacles to their implementation.

## **Appendices**

### **Appendix I**

#### **List of Interviewees**

<b>Interviewee number</b>	<b>Profession</b>
1	Academic
2	Member of Parliament (GM)
3	Politician (PUK)
4	Politician (KIG)
5	Member of Parliament (PUK)
6	Academic
7	Judge of High Criminal Court
8	Politician (KIU)
9	Member of Parliament (GM)
10	Former president of Court of Appeal
11	Academic
12	Judge of Civil Court
13	Member of Parliament (KIU)
14	Politician (KIU)
15	Politician (GM)
16	Government official
17	Politician (GM)
18	Member of Parliament (GM)
19	Judge of Court of Appeal
20	Academic
21	Government official
22	Government official (Director of government office)
23	Member of Parliament (PUK)
24	Member of Parliament (PUK)
25	Member of Parliament (PUK)
26	Member of Parliament (GM)
27	Former Vice President of the Iraqi Federal Board of Supreme Audit
28	Member of Parliament (KIU)
29	Politician (KDP)
30	Academic
31	Academic
32	Member of Parliament (KDP)
33	Member of Parliament (KDP)
34	Member of Parliament (KDP)
35	Judge of Criminal Court
36	Former Iraqi minister
37	Politician (KDP)



38	Politician (PUK)
39	Member of Parliament (KDP)
40	Member of Parliament (KIG)
41	Politician (KIG)

## **Appendix II**

### **Main interview questions**

<b>Date:</b>	<b>Duration:</b>	<b>Interview type:</b>
<b>Place of Interview:</b>		<b>Interview number:</b>

---

---

#### **Introduction**

Good morning/afternoon/evening. As you are aware, I am doing a PhD at LJMU. I am conducting research about the reform process in state institutions and understanding how politicians and officials in the Kurdistan Region view the public interest and ethics. I would like to assure you that I am only interested in your opinion regarding the issue, and your answers will be confidential. I contacted you earlier about the possibility of interviewing you. May I have around an hour of your time to conduct this interview with you now?

1. Yes (continue)
2. No (new appointment, refused etc.)

#### **Let us begin with some general questions about Kurdistan**

- What are the most important problems facing this region that the government should address? Please tell me the MOST important problem.
- [Follow-up] Now the other five top important problems.

#### **Democracy**

- What does democracy mean to you?
- What are the democratic principles?
- In your opinion, what are the most important democratic principles? Which of these are more important to be implemented for improving QoG? Why?
- If they cannot be implemented in Kurdistan: Why? What are the barriers?

- Do you think the Kurdistan regime gives effective consideration to democratic principles such as free and fair elections, the rule of law, freedom of speech and transparency?

Yes ☐ No ☐

Why? .....

- Do you think public offices and political parties in Kurdistan do enough to work for and protect the public's interests? How? Why?

### **Human rights and civil liberties**

- The constitutions guarantee a free and independent media and other forms of freedom of expression in Kurdistan. Does this happen in practice, and, if not, why?
- Is there freedom of assembly, demonstration and open public discussion, free professional and other private organisations? If not, why?
- How can these types of freedom, mentioned in the constitutions, be implemented and defended in practice?

### **The electoral process**

- The Kurdistan constitution guarantees free and fair elections. Does this happen in practice, and, if not, why?
- Are parliamentary representatives, the head of state, and members of governing councils elected through free and fair elections?
- How effective a range of choice does the electoral and party system allow the voters, how equally do their votes count, and how closely do the composition of the legislature and the selection of the executive reflect the choices they make?
- Are there fair electoral laws, equal campaigning opportunities, and fair and honest elections for all political parties?

- Do all political parties get equal financial support from the government? How far does the system of party financing prevent the subordination of parties to special interests? How do special interests affect both democratisation and QoG?
- Are the people's political choices free from domination by the military, economic oligarchies or any other powerful group?
- How effective is civilian control over the armed forces, and how free is political life from military involvement?
- Do elections give the people control over governments and their policies in Kurdistan?
- Does the way elections are held in Kurdistan delay the democratisation process?

### **Corruption**

- What do you understand by the term “public interest”? What does it mean to a person like you?
- To what extent, if any, do you think that officials and politicians use public office for private gain?
- How serious do you think the problem of using public office for private gain is in Kurdistan?
- What do you think is the MAIN cause of misusing power by officials/politicians in general?
- What is the level of control by officials? Do they have enough power to carry out their duties? What are the obstacles, if any?
- What is the level of control of governance by the politicians? Is this a problem? If so, why? What can be done in practice to reduce political domination?

### **Employment and civil rights**

- To what extent is access to employment or business activities available to all, without discrimination? Is there equality of opportunity and the absence of economic and political exploitation?
- Do politicians and high-level officials control recruitment or choice of employment?

- Do citizens have the right to establish private businesses? Do political parties or government officials unduly influence private business activity?
- In what way can principles such as equal opportunity, human rights, transparency and the rule of law improve the recruitment process and business activities in practice?

### **Rule of law**

According to the constitutions, there must be separation of powers between the legislature, the executive and the judiciary. The judiciary should be fully independent and the rule of law must be guaranteed.

- To what extent do you see separation of powers in Kurdistan? Is the judiciary independent?
- Does the rule of law prevail in civil and criminal matters? Are the police under direct control of the judiciary?
- Are citizens treated equally under the law?
- To what extent are all public officials subject to the rule of law and to transparency rules in the performance of their functions?
- How independent are the courts and the judiciary from the executive and politicians, and how free are they from all kinds of interference?
- How would you recommend the rule of law be allowed to prevail in general?

### **Civil society**

- Do you think there is a genuine civil society that supports democratisation in Kurdistan?
- Does civil society actually play its role? If not, why?
- Does the regime in Kurdistan work to build an effective civil society to be supportive in the process of democratisation and improvement of QoG?
- How extensive is the range of voluntary associations, citizens' groups, social movements etc., and how independent are they from government?

### **The media**

- To what extent are the media independent and free from subordination to the government or political parties?
- How representative of different opinions are the media, and how accessible are they to different sections of society?
- How effective are the media and other independent bodies in investigating the government's work and political scandals?
- How free are journalists from restrictive laws, harassment and intimidation by the government and the ruling parties?
- Overall, do the media operate in a way that sustains democratic values?
- In your opinion, what should be done in practice for the media to be able to play their role in the process of democratisation and improving governance?

### **Accountability, transparency and QoG**

- Is the government honest and accountable to the electorate between elections?
- How reliable and accessible to the public are government institutions and government and non-governmental scrutiny agencies?
- Does the government operate openly and is it transparent to scrutiny?
- How far is the elected government able to meet the needs of its people, and how well is it informed, organised and resourced to do so?
- How independent is the parliament of the executive, and how freely are its members able to express their opinions?
- How extensive and effective are the powers of the parliament to oversee the executive and hold it to account?
- In your opinion, how can the democratisation process improve accountability and transparency in institutions of governance? What should be done in practice?

### **The judiciary**

- Do you think that the courts in Kurdistan comply with the principles of the rule of law and equality before the law? Expand.

- Do you think the judiciary is independent and impartial from the government and politicians? If not, why? What can be done to improve the effectiveness, independence and impartiality of the judiciary?
- What action will the judicial service take against high-level civil servants or politicians found guilty of misusing power?
- Do you think that the public prosecution service plays its role independently of politicians and officials? If not, why? What can be done to improve their work?
- How can democratisation and democratic values improve the role of the judiciary in Kurdistan?

### **The reform process**

- What do you understand by the term “democratisation process”? Do you think the process of democratisation in Kurdistan, in its current form, can improve the state institutions? How?
- Do you think that democratisation in Kurdistan can curb the level of corruption? If so, how?
- Do you think that the ruling parties are willing to carry out reform in the state institutions?
- Does the government have sufficient resources to undertake reform in the institutions?
- What are the main obstacles to the reform process? How can the government remove them?

### **Final question:**

- Is there anything else you would like to add?

**I would like to conclude this interview by asking you some general questions for the purpose of analysis.**

1. Gender

- a) Male

b) Female

2. Into which age group do you fall?

- a) Younger than 20 years
- b) 21 to 30 years
- c) 31 to 40 years
- d) 41 to 50 years
- e) 50 years or older
- f) Refuse to answer

3. What is your job? Tell me briefly about your job assignments. What do they include?  
What year did you start working at ...? What is your position or rank?

4. What is your highest academic qualification?

- a) Illiterate
- b) Semi-literate
- c) Diploma
- d) Bachelor's degree
- e) Master's degree
- f) Doctorate

5. From what province do you come?

- a) Sulaimaniyah
- b) Erbil
- c) Dohuk

6. Would you like to receive a free copy of the research upon completion?

- a) Yes
- b) No

Please can I have your postal details?

This is the end of the interview. Thank you for your time and the input you provided.



### **Appendix III**

#### **Specific interview questions**

##### **For politicians**

- Does your party give equal opportunity to every member to put him/herself forward as a candidate in elections for significant positions, such as party leader and branch head? Please give examples.
- Do you think that the party system in Kurdistan assists the working of democracy? If so, how? Why do you think this?
- To what extent do your party's internal rules and regulations take account of the application of democratic principles, such as free and fair elections, accountability and transparency? To what extent do you see implementation of those principles in practice? What effect do they have on the functioning of democracy in Kurdistan? Please give examples.
- What are the sources of your party's finances? What is your estimate of your party's annual budget?
- In your party, how are presidential and parliamentary candidates nominated? What democratic methods are used, if any?
- Are your party's internal elections, financial affairs and procedures for granting high-level positions democratic, fair and transparent? What measures are used? Are they effective?
- How much confidence do people have in the legal system to deliver fair and effective justice?
- Are high-level officials recruited on the basis of their CV (experience and qualifications)? Or are political loyalties and family influence more important in recruiting for such positions?
- What concrete steps has your party taken in the past eight years to implement the constitutions? What about implementing the democratic principles, in particular?
- What do you know about the reform process in other countries? What lessons can be learnt from other countries?

- [For politicians in a ruling party] Does your party have any influence on decisions made by government officials? Or does your party not interfere in the government's work?

### **For officials**

- Does your office have a code of conduct? If not, why? If so, how seriously is it implemented?
- Do you have a particular code of conduct about the separation of public office from private business and family interests? How are these provisions implemented? If they are ignored, why?
- In your organisation, is there a policy for resolving conflicts between public and private interests?
- Do you have specific rules and regulations for decision-making? Do you implement them in practice? Please give examples.
- What are the causes of breaches of the law by officials (e.g. lack of knowledge of laws and ethics, and/or wide discretion)?
- What auditing system exists in your office? Is it effective enough to prevent corruption?
- Is your work subject to monitoring by an external body, such as the integrity committee and Auditor General? How? Please expand.
- Does parliament scrutinise what you do? How often? In what way?

### **For officials and judges: Your job and the way you work**

- What are the functions and responsibilities of your office/job?
- How did you get your current position? What qualifications or experience are required for your job?
- Did you receive relevant training for your job?
- How do you fill vacant posts? Procedures? Criteria?
- Is the way you exercise your powers subject to external audit and monitoring?
- Why do the ruling parties grant jobs based on family and political loyalties? What do they get in return?

- Do politicians support your office (parliament/ministry) to do your job as required, or do they influence your decisions? Are there any difficult relationships? Why?
- To what extent are you open to the public about your work? What measures does your office have to make your work transparent and open to the public?
- Do you think that your organisation can work independently of the influence of political parties (for own interest)? If so, in what way is it independent? If not, what do you think can be done to guarantee its independence?
- What additional resources would help you to do your job more effectively?

### **For MPs**

- How do you monitor the government's work? Are you happy about the current method of monitoring?
- In terms of selection procedures for presidential and parliamentary candidates, what would you consider to be a more effective democratic approach for Kurdistan:
  - (a) candidates are nominated by the executive and only endorsed by voters/members [presidential: Yes \_ No \_] [parliamentary: Yes \_ No \_] Why?
  - (b) voters/members directly nominate candidates, who compete freely in primary elections [presidential: Yes \_ No \_] [parliamentary: Yes \_ No \_] Why?
- What can be done to improve the monitoring process in practice?
- How freely and effectively are all parties and groups able to organise within parliament and contribute to its work?
- Do you think that MPs in Kurdistan generally act in the interest of the people or of their own party?
- How comprehensive and effective is citizens' right of access to government information under the constitutions or other laws? How is this reflected in practice?
- How much confidence do people have in the legal system to deliver fair and effective justice?

### **For journalists**

- Do you think that government activities are transparent?

- How do officials respond to you? Do they give the information you need? What difficulties do you experience?
- What do you suggest could be more practical ways to fulfil the principles of accountability and transparency in public offices?
- How much confidence do people have in the legal system to deliver fair and effective justice?
- How comprehensive and effective is citizens' right of access to government information under the constitutions or other laws? How is this reflected in practice?

### **For judges**

- How did you get your current position? What qualifications or experience are required for your job?
- Did you receive relevant training for your job?
- How do you fill vacant posts? Procedures? Criteria?
- What is your relationship with the Ministry of Justice? How does it regulate and monitor your work?
- Do you think that judges have enough power to enable them to exercise their professionalism without interference from politicians and the government? If not, why? How can this be improved?
- Can politicians or officials be tried in court for misuse of power? Do you have the power to convict someone in a high-level position? Have you dealt with any case in this regard?
- Can setting up specialised courts to deal with the abuse of power by officials/politicians be effective in curbing corruption?
- What is your opinion of the law that requires ministerial consent to put high-level officials on trial?
- How comprehensive and effective is citizens' right of access to government information under the constitutions or other laws? How is this reflected in practice?

## Appendix IV

### Transcript: Interview 5

Member of Parliament (PUK)

Date: 23 March 2013      Duration: 2 hours 45 Minutes      Interview type:  
Skype  
Place of Interview: Online      Interview  
number: 5

---

[Introduction as per Appendix II]

#### General questions about Kurdistan

- *What are the most important problems facing this region that the government should address? Please tell me the MOST important problem.*

There are a number of problems in Kurdistan, each with its own features and importance.

We have administration problems; our governance institutions operate a very old-fashioned administrative system. This system has not been updated to take account of the big changes in the region, in the economy and the standard of living. This old system cannot cope with these changes and cannot meet the current needs of citizens.

In addition, the institutions do not perform their duties properly. In other words, they are not active, and cannot cope with the demands on them.

Political or democratic problems are another issue. These problems are related to each other. We have created a number of democratic institutions, for example the electoral commission for regulating the election process, but elections are not held on time. We have a system of plurality of political parties, there is freedom of expression and freedom of thinking. There are civil society organisations. All these exist as institutions but their existence does not mean that they work properly and in a democratic manner.

There are failings in the political parties – they do not follow their internal regulations

...

- *Sorry for stopping you here, but I want to explain that I am going to ask you questions about this later.*

OK. I just want to add that corruption is one of the big problems in this region.

### **Democracy**

- *In your opinion, what are the most important democratic principles? Which of these principles are more important to be implemented for improving QoG? Why?*

I think the most important democratic value is citizens' participation in the decision-making process on matters of public interest.

Another important value for Kurdistan is working together – I mean the political parties must work together to fulfil their duties in serving the people.

- *Why can they not be implemented in Kurdistan? What are the barriers?*

Of course, nothing cannot be implemented, but it needs effort and cooperation. For example, public participation in the decision-making process requires government institutions to open their doors to the people, civil society organisations must be allowed to be heard and given the opportunity to deliver people's opinion to government. This is how you allow citizens to participate in public decisions.

Another example is holding further elections. A number of elections, such as city council elections, were not held on schedule, but we have to work in this direction. In addition, there must be a proper system after the elections to maintain the link and contacts between citizens and the people elected to these institutions. Through this mechanism, we can allow the citizen to have a voice and participate in making decisions.

I cannot recall my second point ... [Laughs]

- *You were talking about cooperation between political parties to fulfil their duties.*

OK, thanks. Some things require cooperation between all the political parties; the nature of some things cannot be left for a particular political party. Unfortunately, now Kurdistan's governance works on the basis of majority and minorities – I mean that the ruling parties, who are the majority, do not want to share.

- *In your opinion, do you think the Kurdistan regime gives effective consideration to the democratic principles proposed by the constitutions, such as free and fair elections, the rule of law, freedom of speech and transparency? Why?*

It cannot be said that the KRG has fully complied with those principles, either those mentioned in the constitutions or the general principles of democracy.

Let's talk about them one by one. There is a lack of transparency in many respects. There might be transparency in some respects but not in others, in particular related to the economy, revenue and the oil deals.

The freedom of expression exists but it is imperfect. It is true that people are able to protest and there are free and independent press and media. This shows that freedom of expression exists, but it is tightly regulated. Many times journalists have been punished for expressing their views. Part of this problem may relate to the authorities because they have not regulated the media in a good way, but part of it is also the fact that journalists' work in Kurdistan is not professional. In relation to the right of protest and demonstration, in some cases and in some places the authorities prevent people from protesting, but this right is better protected in other places. But the truth is that the authorities do allow the freedom of expression; of course it is not by choice, but the circumstances of the region made the authorities allow this. At the same time, when necessary the authorities use force to breach this freedom. This means that they still have the option of using force and violence to humiliate those who threaten the

government's interests. So I can say that in Kurdistan we have an authority that fits somewhere between democracy (and the principles of democracy) and dictatorship.

- *Do you think public offices and political parties in Kurdistan do enough to work for and protect the public's interests? How? Why?*

The concept of public interest is too broad; you cannot give a clear answer about this. But if we look at it generally, part of public interest is related to the public services that should be provided by the government, and part of it is related to public security and protection of property. In relation to public services, the government was partly successful in improving the electricity and fuel supplies, but this cost the government too much. The standard of living has improved a little, but at the same time market prices have risen, and food security and the supply of medications are not very good, as you can see from the poor quality of food and drugs imported into the region. However, we cannot completely blame the authorities for this, because part of the problem may be related to businessmen who breach the rules and regulations.

On the other hand, it is the authorities' responsibility to provide the people with various freedoms and rights, such as the right to participate in the political process and governance. Actually we have a problem with political rights, in that people can express some political opinions but not others; for example, the government does not accept serious criticism of the authorities or high-level politicians. As I said, it's all mixed up here.

### **Human rights and civil liberties**

- *The constitutions guarantees free and independent media and other forms of freedom of expression in Kurdistan. Does this happen in practice, and, if not, why?*

The situation on human rights is the same as for other issues: it is imperfect. We are living here and we know the circumstances, but international organisations such as Human Rights Watch know that the human rights of journalists are regularly breached by the authorities. We have a press law which guarantees the right of freedom of speech, but journalists are not dealt with according to this act, but the courts deal with



them under the Iraqi Penal Code of 1969, which is very harsh. This causes various breaches of journalists' human rights. Another example is what happened during the protests on 17 February [2011], when many people were killed, injured or tortured. There is another important issue I should mention here: this violence has an indirect effect on the freedom of expression, because it plants a psychological fear in people that prevents them from freely expressing what they want.

Unfortunately, instead of taking these reports into account the authorities deny them and react in a negative way. Surprisingly, last year the KRG admitted what was in the Human Rights Watch report and participated in a meeting arranged by the independent media to understand the issue and took steps to deal with it, and promised to work on improving the situation. But this year they denied the allegations. So I think the KRG's reaction against these reports was irrational. There is nothing to make these international organisations raise false allegations against the KRG; they have no self-interest in these reports, and there is no political or economic interest behind their reports. Their reports are only professional and academic, so the KRG must take them seriously into account. It is true that I personally have some concerns about the method of data collection used by HRW, but overall the reports are true and valuable. The issues they report are not something they discovered, rather the breaches are well known by people – for example, using violence against protesters and journalists.

In addition, the authorities in some countries pay good money for these types of organisation to assess the human rights situation in their country. We have to thank these organisations that they provide the service here for no [financial] considerations.

### **The electoral process**

- *The Kurdistan constitution guarantees free and fair elections. Does this happen in practice and, if not, why? For example, are parliamentary representatives, the head of state and members of governing councils elected through free and fair elections?*

The political parties that participated in the election all accepted the outcome, which gives the process a degree of legitimacy. However, this does not mean that the elections were completely clean, fair and transparent. The first shortcoming with the election is

that there isn't equal opportunity between the political parties; some parties that have human resources and supporters but no equal opportunity to organise themselves properly to participate in the elections.

- *What do you mean by having no equal opportunity?*

There is no equal financial funding for the parties, and the police, security services and the military are under the direct control of the ruling parties, who can use them wherever they need. This all creates some inequalities between the political parties.

- *In addition to what you say, do you think the ruling parties use the recruitment system to their political advantage in the elections?*

Of course – this has actually happened. The political parties use recruitment and the social services for their own interests, they grant high-level positions to those loyal to them, and they misuse the social services for the interests of their members and supporters, and through this illegal tactic they have increased their supporters and votes. In addition, the ruling parties use government institutions to strengthen their power.

Regardless of what they do to confirm their standing and win elections, you can see that the ruling parties' vote gets smaller from one election to another. This is because people have other demands, they need freedom, and the improvement of public services and the quality of life.

- *Let's say the opposition wins the next election. Do you think the ruling parties will hand over power peacefully?*

In relation to the ruling parties accepting the outcome of the election, we have the example of the last one. The opposition parties obtained a large numbers of seats; in particular, Gorran [GM] obtained 25 of the 100 seats. The authority accepted this, but the election was still in the interests of the two ruling parties, who were able to form a coalition government together. [At this point, the Skype connection was interrupted and I called back.]

Therefore, in my opinion if the outcome of the next election does not put their interests in danger they will accept it, even if the number of opposition seats increases. In Kurdistan by its nature the authority is divided into two geographical areas, ruled by the PUK and the KDP, and I think we still need time to be able to peacefully hand over power to the winning party. For example, in Dohuk, even if the opposition parties win the election, I think that the ruling party in that area will not let them have a role in governing that area.

There is another issue I should mention – the strategic convention between the KDP and the PUK, which planned the balance of power between the two parties and how they share power. What happens in practice reflects this convention. Ending this convention might therefore bring an end to the political game and change the political map of the region, in which case the outcome of the election will have a greater effect.

### **Corruption**

- *To what extent, if any, do you think officials and politicians use public office for private gain?*

You can see on the ground the phenomena of bribery, large-scale corruption and petty corruption. If we look at high-level politicians such as the prime minister and other ministers, and officials, you can see that they appoint people who are close to them. They give tenders to companies that belong to their families or their political parties. The government has indirectly admitted this. Two years ago, the head of the KRG established a committee and asked it to investigate corruption and submit a report. However, the report was very complicated and weak.

- *What is your opinion about oil deals? According to the government, they are administered through a committee consisting of five people. What do you know about this issue?*

I am not aware of the existence of such a committee in practice. As far as I know, the head of the parliament is not a member of this committee and is not aware of the deals –

or the minister of finance, who has admitted in parliament many times that he is not aware of the oil deals.

- *I am sorry. I cannot reveal the name of the interviewee who told me that, but I can say that he holds a high position in one of the ruling parties.*

It's OK, I won't ask you to name him, but as far as I know that is not true.

- *In your opinion, if that is not true, who is aware of the oil deals?* [At this point, the Skype call was again interrupted, and I called back.]

I don't think it is like that. Oil deals in Kurdistan are not transparent, and are conducted in great secrecy by a couple of people. In the last couple of years, after pressure from the opposition, the government has revealed details of the oil contracts but nothing about the revenue from the deals. The parliament tried to get the details of these deals by calling the Minister of Natural Resources and questioning him, but he did not give full details of revenue from the oil deals, for two reasons. First, the government has a good excuse: it does not want the central [Iraqi] government to pick up details of these deals, because in that case [the KRG] would have to return the revenue to the central government and this would affect the Kurdistan budget. Second, the government might want to hold back some money from the oil deals, as the KRG does not have its own revenue, because all revenue in Iraq must be collected and redistributed by the central government. But these excuses play into the hands of those who deal with oil to use it for personal gain, because there is no transparency over the issue – as I said, that couple of people who deal with oil can play with its revenue very easily. If parliament is not aware of these deals and the revenue from them, you cannot be certain what will happen to it, and it will be spent regardless of who deals with it. At the same time, we see the outcome on the ground – a number of politicians have a lot of money and they are spendthrifts, and several became millionaires in a few years. This indicates that the revenues from oil are not in clean hands. So you could say that the lack of transparency in oil deals is certainly in the interests of certain politicians and they want it to remain non-transparent.

- *What do you think is the main cause of the misuse of power by officials/politicians in general?*

The causes of corruption vary. There is no accountability in government institutions, and the monitoring organisations are not able to play their role or fulfil their duties. The reason may be that the political elites have control over all the governmental institutions and can do whatever they want; they use the power for their own benefit and for that of their party, and to make their position stronger.

- *Is that a problem? What can be done in practice to reduce political domination? Or to limit the misuse of power?*

I think we need a strong opposition with a robust plan for reform and for the style of work in parliament and putting pressure on the government and the ruling parties. Unfortunately, although the opposition parties have talked about the reform process many times, there is no shadow government to submit valuable and creative suggestions about how to carry out the reforms. This indicates that we require a clever opposition with a good plan and strategy to combat corruption, and they must work in the hope that they get into power and form the government one day. Unfortunately, the opposition in Kurdistan have no such hopes and they may want to remain in opposition for ever.

- *What about the effect of the strategic convention between the two ruling parties on preventing a strong opposition in the region? As you know, these two parties used to oppose each other and fought amongst themselves for years.*

I have said many times that the strategic convention has limited the extent of democracy in the region in many ways, and of course this effect still exists. If this convention comes to an end, of course this will have a positive effect on democracy in various ways – one could be to strengthen the role of the opposition, which would consequently affect the reform process. However, this is not the only issue – civil society also has a big role to play.

### **Employment and property ownership rights**

- *How far is access to employment or business activities available to all, without discrimination? Is there equality of opportunity and the absence of economic and political exploitation?*

In relation to work in the public sector, opportunities for employment were politicised, and the ruling parties only allowed their members and supporters to work in the public sector. This was for two reasons: first, in order to control the government institutions and, second, to sustain the loyalty of their members and supporters. Professionalism and experience were taken into account rather less. But after a lot of struggle and pressure from the media and opposition, the government had no option but to carry out some reforms. Public-sector recruitment used to be finalised by ministers and, for some high-level positions, by the prime minister, but now this authority is passed down to the council of the provinces and to some specialised recruitment departments. I can say that this is a first step towards reform and improvement in the system of recruitment, but this does not mean that everything is now perfect. Political interference continues. The private sector is less affected by corruption, although it still exists in companies that belong to the political parties. On another issue, I think that there are fewer opportunities for women than men in the private sector.

### **Rule of law and separation of powers**

- *To what extent do you see separation of powers in Kurdistan? Is the judiciary independent?*

You can still see the three authorities mixed up and the political parties have control over them at the top. Although we have separate institutions for each authority, in practice the authorities are not completely separate.

For example, the judiciary is still under the control of the government, or more correctly the ruling parties. The public prosecution service is still a part of the ministry of justice, which means it is under the control of the government and not fully independent. Part of the problem must be that the judges used to be recruited through the ruling political parties, which makes them unable to disobey their masters.

For example, some cases are closed down during the investigations under political pressure. On the other hand, there are some cases in which the court made very strange decisions under political pressure. However, this doesn't mean all judges are the same; most are doing their jobs properly, without any problem. The political parties mostly interfere in cases of a political nature or cases related to their high-level members, when they use judges who are close to them and listen to them.

- *If high-level politicians or officials are involved in criminal activities or corruption, are the courts able to try them fairly?*

No, I don't think so. I think these people have some kind of immunity before the courts. There is a real example. Some ministers and high-level politicians were involved in corruption, and if the rule of law had been upheld these people would have been punished, but so far the courts have not been able to convict them. Many of these cases have not even been investigated. The public prosecution service is not able to fulfil its duty and play an active role in cases related to these types of people. Many cases had to be brought forward and investigated, but they did nothing about them.

- *Is this because the public prosecution service does not work professionally, or have they no power to do so?*

I think both things are correct, and connected. If they are professional, they should not follow recommendations from outside or under the control of the political parties. Because they have powers specified by law, but unfortunately do not use them, you could say that they are negligent. On the other hand, there is political influence, and the ruling parties and the government do not let them to carry out their duties.

I would like to make another point here – there is no group of lawyers to criticise the judiciary and work to uphold the rule of law in Kurdistan.

- *You said that judges and public prosecutors were recruited by the political parties, who mostly recruited their members and supporters. Does this influence help the circulation of corruption?*

Without doubt, this is the root of the problem; if you are a member of an organisation, you cannot be impartial in cases related to this organisation. The judiciary must be independent and impartial. The judicial system is not independent in two respects: first, the public prosecution service is a part of the government and, second, the judges were recruited from among members of the ruling parties and work under their control. In addition, the judges are seen as government officials, and you cannot be a government official and monitor the government's work at the same time.

- *How would you recommend the rule of law be allowed to prevail in general?*

As I said before, the opposition must play its role, and must have a plan for change. Civil society must work more actively and try to build confidence between the government and the people. On the other hand, we must work to build a political will to uphold the rule of law. This could be created by putting more pressure on the ruling parties, through the opposition, lawyers and civil society groups. However, not only the political parties are negligent. Part of the problem relates to people's culture, and time is needed to change this; the public must be made aware of their rights and responsibilities, and a culture of upholding the law created because part of the issue is related to society as a whole.

On the government side, the governing council issued a code of conduct for officials a couple years ago, but unfortunately this has not been implemented in practice. This code of conduct is important because it determines the rights and duties of officials, outlines how officials should act in public office, explains what the public interest is, and determines how to resolve conflicts in office.

On the other hand, the political parties must work as political parties, separate from government, and the government must act as a government. The political parties can have a programme and manifesto to guide them if they win the election, but they must not control the government. We can see that the political parties decide the composition of the cabinet and its members rather than the parliament.

### **Civil society**



- *As someone who lived and was educated in Europe, do you think there is a genuine civil society that supports democratisation in Kurdistan?*

Civil society and its organisations are new to Kurdistan and have a short history. During Saddam Hussein's rule here [before 1991], no civil society organisations existed. They appeared after the fall of Saddam in 2003, although we did have various organisations between 1991 and 2003, such as teachers' organisations, doctors' organisations and so on. However, they were formed either directly by the political parties or by their supporters. They therefore played a limited role and were not working for the interest of the public or particular groups because their main job was to recruit new members for their parties. Some other organisations were created through the influence of international bodies. So civil society organisations in the region were dependent either on the political parties or international organisations. For these reasons, they did not lead to the creation of an actual civil society in Kurdistan able to work as a link between the people and the government, to represent the people on assorted issues or to work in the public interest.

But, after 2003, a number of independent organisations were formed which tried to work impartially in the interest of the public or particular groups, although we cannot say that a European or American style of civil society exists in Kurdistan, because the history, circumstances and reasons behind the formation of these organisations were different. In addition, there was not a good law to allow the creation of such independent organisations or to support their activities. Moreover, there are no individual grants or donations for such organisations to enable them to be free and independent from the political parties. Finally, the required formalities made it very difficult for such organisations to be established. However, parliament has now issued a new law to regulate the work of these organisations, which gives them some form of independence, makes it easier to establish a new organisation and allows them to apply for financial support from the government according to their size and activities. The new law therefore gives the organisations the ability to represent the people and deliver peoples' demands to the government. So, in my opinion, if this law is implemented, civil society organisations can play their role as required.

- *You mentioned financial support. Can you say more about this, and whether the government gives such support without considering the political views of the organisation?*

Over the last two years, parliament has provided 15 billion Iraqi dinars to support these organisations' projects. Of course the government should assess the projects and activities and provide funds to each organisation accordingly. In addition, prior to this new law, for an organisation to be established it had to go through a number of difficult procedures to obtain permission, but the new law does not require permission; rather it requires registration with the relevant department, called the Office of Non-Governmental Organisations. And the procedure is now more simple, and takes less than a month. If this law is implemented properly, it can improve the situation.

### **The media**

- *How independent and free from subordination to the government or political parties are the media, and how accessible are they to various sections of society?*

It is not the media's business to criticise, but to honestly deliver information to the people, so they can assess the issues and decide how to react. But unfortunately the media in Kurdistan are distributed according to the interests of the various political parties. There are media that belong to the ruling powers – which is like a trumpet of authority, a type of media that only praises and compliments those in authority. The opposition media's job is only to criticise the authority and point out shortcomings in the government's actions. Between these two, there are some independent media, however they work under the influence of the others and have not been allowed to work freely. But we can say that there are some media that work professionally and have an important role in society.

Unfortunately, there are some media in Kurdistan that mislead the people. You can find different and inconsistent reports of the same incident, which creates differing attitudes among people and creates divisions and unsettles society. So I can say for sure that the media have negative effects as well as positive. For this reason, now when we hear a particular item of news, we have to go to ten other sources to get the truth, because there

is no confidence or trust in the media, and we are not sure to what extent the media are telling the truth. So, although the media created openness in society, at the same time there is choice for the reader or listener.

- *Do you think that part of the problem is that there is no openness or right of access to information on the government's work, and as a result different media are unable to obtain a clear picture about a particular issue and consequently report it in different ways?*

Without doubt, part of the problem relates to lack of information. It is true that, when there is no right of access to the correct information and to reveal the truth, different people may analyse the issue in different ways. On the other hand, when there is no true information, the political parties take advantage of this and take the opportunity to rewrite the news in their interest. Sometimes the political parties don't stop at criticising each other, rather they start blasting each other and abusing each other, and no space is left for creative criticism. I would say that, even among journalists, no ethics of journalism are implemented, and this of course has a negative effect on the situation, because the media cannot play its role and people lose confidence in the media.

However, there is a draft law in parliament on the right of access to information. We want to make this a basic right.

- *You have talked about a law on the freedom of information and a press law. Do you think our problem is the lack of good laws, or in implementing laws?*

Certainly, the lack of good laws is not the only problem, although having a legal body always helps to create a good environment for those who want to uphold the rule of law. However, I think implementing the law is more important than the law itself.

### **The judiciary**

- *Do you think the process of democratisation in Kurdistan reflects the Iraqi constitution or the political culture of Kurdistan? Can it improve state institutions and QoG? If so, how?*

The current political system does not reflect the constitutions. I think the current situation has been created by the day-to-day practice of politics in the region, in particular that practised by the KDP and PUK, and relates to the Kurdish political culture. The revolutionary culture still has an effect on the political system. People still receive bonuses and grants for their efforts during the revolution.

There is no rule of law; the legitimacy of the government's actions derives from the political parties rather than the law. In addition, we must point to some other factors that affect the current situation in Kurdistan, such as the internal fighting and the two administrative systems; I can still see the effect of these on the political system and governance in the region.

The appearance of the opposition over recent years is a sign of change in the political system. But up to now it has not been very effective, so we should wait and see what happens at and after the next election.

- *Do you think that democratisation in Kurdistan can curb the level of corruption?*

If democracy is well practised in political life, it may create a foundation for good governance, because democracy helps with teamwork, public awareness, respect, transparency and public confidence, and consequently can affect governance.

As you know, one of the main causes of corruption is a lack of public confidence in the system of governance, so people pay a bribe to an official in order to get the job done. More importantly, democracy increases the level of public participation in the decision-making process and power-sharing, and this will of course lead to improvement in governance. In addition, true democracy allows the people to monitor the government and they can subsequently make it difficult for the politicians and officials to misuse power for their own interests. So we can say yes, democracy can improve QoG in Kurdistan.

- *Do you think that the parties in power are willing to carry out reform in the state institutions?*

The ruling parties regularly announce in the media and political speeches that they have the will for reform and they always make allegations on different occasions. For example, at the last election the ruling parties claimed they would form a one-stop shop to combat administrative corruption, but this has not been done in practice.

- *You said that they have not done that. Why is this?*

This is a problem everywhere – during elections, political parties make promises that they may not be able to keep when they come to power. On the other hand, if the opposition parties come to power, you cannot be certain whether they will fulfil their promises, either. They are not able to stamp out corruption, and while each party may have a different style of working the reality is that corruption cannot be stopped completely; it needs not just time, but also a strong will for reform, a plan, resources and hard work. Those who abuse the system must be firmly punished. In Kurdistan there is no real will for reform, because most of those who have high positions in the government are involved in corruption in some way, and even if they are not involved personally, their relatives and friends are. So they cannot face punishment as they cannot punish themselves or their relatives. Those who are not involved in corruption are probably in the minority and cannot punish the majority.

- *That means that there is no will for reform. Do you think the government has sufficient resources to carry out reform in the state institutions?*

I am not certain whether the financial and human resources are available in Kurdistan, but from my understanding we may require new regulations and a new law to combat corruption. There are some legal provisions scattered between the different sections of the criminal law, criminalising bribes, misuse of power and corruption. But these are not enough. We may require a clear, specific law to combat corruption. We may require other institutions to fight corruption. We have two institutions to monitor the government's work: the finance monitoring council and the integrity committee. The former must do audits, monitor the government's expenditure and spending as well as

revenue, but unfortunately this institution is very weak and not active, and it is under the control of the government. The integrity committee must also monitor the government's work, chase and investigate any cases of misuse of power and investigate corruption cases at any level. However, although these institutions existed on paper for many years, they took no action and there was no outcome. So we lack a monitoring system in Kurdistan and as a result cannot combat corruption as required. We therefore need new regulations and a new law, as well as new active institutions to combat corruption.

### **Specific questions for MPs**

- *How do you monitor the government's work? Are you happy about the current method of monitoring?*

Of course parliament must play its role of monitoring the government and the political parties, and must monitor the upholding of the rule of law. I think parliament played the weakest role in fulfilling this duty. One of the obstacles parliament faces is that the two specific monitoring bodies are not supportive. These bodies are supposed to investigate and monitor the government's work and prepare reports for parliament. But they have not done that. In the absence of these two bodies, on many occasions parliament has had to do this job, and had to monitor the government's work. However, the government does not respond to our requests. Why do they not respond? Because parliament is weak and not able to hold the government accountable for what it does – and this is because the political parties themselves outline the parliament's agenda and style of work. The parties are not ready to put their own leaders under parliament's monitoring system, because they think this may damage their parties' reputations, which would be against their interests, as their leaders misused their power and broke the law.

- *Do you think that establishing a new court to deal with corruption cases – with more power than existing regular courts – would help reduce the level of corruption?*

I think just creating such a court would not solve this issue because we need a monitoring system before having an institution to convict the criminals. I think the priority is to activate the two monitoring bodies I mentioned. The human rights

committee can also help the reform process. But I can frankly say that these bodies are dead. So forming a new court without these investigating bodies would not change the situation, but if we were able to reactivate these bodies along with a specific corruption court, that could of course help. However, if the rule of law is upheld, even the regular criminal courts can apply the law and convict those who misuse power.

### **Final questions**

- *Is there anything else you would like to add?*

[Nothing]

*General questions for analysis purposes*

Gender: Male

Age group: 41 to 50 years

What is your job? Member of Parliament (PUK)

Highest academic qualification: PhD

Province: Erbil

## Bibliography

- Abdulla, J. (2012) *The Kurds: A Nation on the Way to Statehood*. New York: Author House.
- Abdullah, N.R.W. (2008) Eradicating corruption: The Malaysian experience. *Journal of Administration & Governance*, Vol. 3, No. 1, pp.4ff. Available at: [http://joaag.com/uploads/5\\_AbdullahFinal.pdf](http://joaag.com/uploads/5_AbdullahFinal.pdf) [Accessed on 14th May, 2012]
- Abdulqadir, S. (2008) Law and Regulation in Kurdistan. [Online]. Available at: <http://www.awene.com/awene.aspx> [Accessed 9th July, 2012].
- Abdulrahman, H. (2012) How to end corruption in Kurdistan? *E Kurd Daily*, 10 May 2012. Available at: <http://www.ekurd.net/mismas/articles/misc2012/5/state6198.htm>. [Accessed on 2nd February, 2013]
- Acemoglu, D., Johnson, S. and Robinson, J. (2004) Institutions as the Fundamental Cause of Long-Run Growth. NBER Working Paper No. 10481. National Bureau of Economic Research. Available at: <http://www.nber.org/papers/w10481> [Accessed on 16th December, 2012]
- Acemoglu, D., Johnson, S., Robinson, J. and Yared, P. (2008) Income and Democracy. *American Economic Review*, Vol. 98, No. 3, pp.808–42
- Adserà, A., Boix, C. and Payne, M. (2000) Are You Being Served? Political Accountability and Quality of Government. Working Paper #438. Inter-American Development Bank. Available at: <http://199.79.166.192/res/publications/pubfiles/pubWP-438.pdf> [Accessed on 8th October, 2013]
- Also published in: *Journal of Law, Economics and Organization*, Vol. 19, No. 2, pp.445–90
- Ahmed, A. (2009) The fact of corruption in Kurdistan. Kurdistan Economists Union, Issue 85. [Accessed online 24 July 2012; website since removed]
- Ahmed, M.A. (2012) *Iraqi Kurds and Nation-Building*. New York, NY: Palgrave Macmillan.
- Ala' Aldeen, D. (2013) Nation Building and the System of Self-Governance in Kurdistan Region. [Publishing details not known; available through Amazon.com]
- Alesina, A. and Giuliano, P. (2009) Family Ties and Political Participation. *Journal of the European Economic Association*, Vol. 9, No. 5, pp.817–39
- Available at: <http://scholar.harvard.edu/files/alesina/files/familytiesandpoliticalparticipation.pdf?m=1360040877> [Accessed on 12th September, 2014]
- Alesina, A., Devleeschauwer, A., Easterly, W., Kurlat, S. and Wacziarg, R. (2003) Fractionalization. *Journal of Economic Growth*, Vol. 8, No. 2, pp.155–94
- Al-Haj, A. (1996) The Politics of Participation in the Gulf Cooperation Council: The Omani Consultative Council. *Middle East Journal*, Vol. 50, No. 4, pp.559–71



- Almond, Gabriel A. and Verba, S. (1963) *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton, New Jersey: Princeton University Press.
- Al-Samak, F. (2010) Islam and Democracy: An Obscure Relationship. Al-Islam [Ahlul Bayt Digital Islamic Library Project]. Available at <http://www.al-islam.org/articles/islam-and-democracy-an-obscure-relationship-fatima-al-samak> [Accessed on 12th October, 2014]
- Alvesson, M. and Sköldbberg, K. (1994) *Interpretation and Reflection: Philosophy of Science and Qualitative Method*. Lund University Publications.
- Amnesty International (2009) Hope and Fear: Human Rights in the Kurdistan Region of Iraq.
- Amundsen, I. (1999) Political Corruption: An Introduction to the Issues. Bergen, Norway: Chr. Michelsen Institute. Available at: <http://www.cmi.no/publications/file/1040-political-corruption.pdf> [Accessed on 13th January, 2012]
- Amundsen, I. (2006) Political corruption and the role of donors (in Uganda). Bergen, Norway: Chr. Michelsen Institute. Available at: <http://www.cmi.no/publications/file/2687-political-corruption-and-the-role-of-donors-in.pdf> [Accessed on 15th February, 2013]
- Anderson, D., Francis, J.R. and Stokes D.J. (1993) Auditing, directorships and the demand for monitoring. *Journal of Accounting and Public Policy*, Vol. 12, No. 4, pp.353–75
- Anderson, J. (2004) Does God Matter, and If So Whose God: Religion and Democratization. In: Haynes, J. (ed.) *Routledge Handbook of Religion and Politics*. London and New York: Routledge Taylor & Francis Group. Available at: <http://www.thedivineconspiracy.org/Z5216L.pdf> [Accessed on 12th October, 2014]
- Anthonsen, M., Löfgren, Å. and Nilsson, K. (2009) Natural Resource Dependency and Quality of Government. Working Papers in Economics No. 415. School of Economics, Business and Law, University of Gothenburg. Available at [https://gupea.ub.gu.se/bitstream/2077/21512/1/gupea\\_2077\\_21512\\_1.pdf](https://gupea.ub.gu.se/bitstream/2077/21512/1/gupea_2077_21512_1.pdf) [Accessed on 2nd December, 2012]
- Anthony, C.R., Moore, M., Hilborne, L.H. and Mulcahy, A.W. (2014) Health Sector Reform in the Kurdistan Region—Iraq: Financing Reform, Primary Care, and Patient Safety. Santa Monica, CA: RAND Corporation. Available at: [http://www.rand.org/pubs/research\\_reports/RR490-1.html](http://www.rand.org/pubs/research_reports/RR490-1.html) [Accessed on 4th November, 2014]
- Article 19 [Global Campaign for Free Expression] (2005) Freedom of Expression and the New Iraqi Constitution. Available at: <http://www.article19.org/data/files/pdfs/analysis/iraq-constitution-background-2005.pdf> [Accessed on 14th May, 2012]
- Ashkenazy, D. (ed.) (1994) *The Military in the Service of Society and Democracy: The Challenge of the Dual-Role Military*. Westport, CT: Greenwood Press.
- Ashour, O. (2005) Democratic Islam? Assessing the Bases of Democracy in Islamic Political Thought. *McGill Journal of Middle East Studies*, Vol. 9, No. 1, pp.7–30 Available at <https://www.mcgill.ca/mes/files/mes/MJMES9Ashour.pdf> [Accessed on 15th September, 2014]

- Aucoin, P. and Heintzmann, R. (2000) The Dialectics of Accountability for Performance in Public Management Reform. *International Review of Administrative Sciences*, Vol. 66, No. 1, pp.45–55
- Awene (2014) Interview with Ahmed Anwar, 12 August 2014 (in Kurdish). Available at:  
<http://www.awene.com/search/node/%D8%A6%D9%87%E2%80%8C%20%D9%86%D9%88%D9%87%E2%80%8C%D8%B1?page=10> [Accessed on 2nd September, 2014]
- Aziz (2009) Interview with Dr Yousif Mohammad Aziz, Minister for Human Rights, 11 February 2009. KRG website. Available at:  
<http://cabinet.gov.krd/a/d.aspx?a=27864&l=12&r=223&s=010000> [Accessed on 18th May, 2012]
- Aziz, S. (2014) The Kurdistan Regional Government Elections: A Critical Evaluation *Insight Turkey*. Available at: <http://www.readperiodicals.com/201407/3447656631.html> [Accessed on 12th August, 2014]
- Babakhan, A. (2007) Federalism as a Model for Democracy. In Macdonald, C.G. and O’Leary, C.A. (eds.) *Kurdish Identity: Human Rights and Political Status*. Gainesville: University Press of Florida.
- Bäck, H. & Hadenius, A. (2008) Democracy and State Capacity: Exploring a J-shaped Relationship. *Governance*, Vol. 21, No. 1, pp.1–24
- Baker, S.E. and Edwards, R. (2013) How many qualitative interviews is enough? Expert voices and early career reflections on sampling and cases in qualitative research. National Centre for Research Methods Review Paper. NCRM/ESRC. Available at: [http://eprints.ncrm.ac.uk/2273/4/how\\_many\\_interviews.pdf](http://eprints.ncrm.ac.uk/2273/4/how_many_interviews.pdf) [Accessed on 12th March, 2014]
- Bamarny, K. (2012) Kurdistan needs an independent judiciary. *The Kurdistan Tribune*. Available at <http://kurdistantribune.com/2012/kurdistan-needs-independent-judiciary/> [Accessed on 6th December, 2013]
- Bardhan, P. & Mookherjee, D. (2000) Corruption and Decentralisation of Infrastructure Delivery in Developing Countries. Department of Economics, Boston University [Online]. Available at: <http://www.econ.yale.edu/egcenter/decdelinf.pdf> [Accessed on 27th June, 2012]
- Barker, E. (1942) *The Politics of Aristotle*. Oxford: Oxford University Press.
- Barnett, H. (2013) *Constitutional and Administrative Law*. 10<sup>th</sup> edition. Abingdon: Routledge.
- Barwari, D. (2014) Kurdistan’s Recent Election: Its Achievements and Challenges. The World Post (The Huffington Post/Berggruen Institute), 25 January 2014. Available at [http://www.huffingtonpost.com/delovan-barwari/kurdistan-election\\_b\\_4311860.html](http://www.huffingtonpost.com/delovan-barwari/kurdistan-election_b_4311860.html) [Accessed on 1st February, 2015]
- Baser, H. and Morgan, P. (2008) Capacity, change and performance. Discussion Paper 59B. Maastricht: European Centre for Development Policy Management (ECDPM). Available at [www.ecdpm.org/dp59b](http://www.ecdpm.org/dp59b) [Accessed 9th October, 2012]

- Bassiouni, C. (1998) Toward a Universal Declaration on the Basic Principles of Democracy: From Principles to Realisation. In: *Democracy: Its Principles and Achievement*. Geneva: Inter-Parliamentary Union. Available at: [http://www.ipu.org/PDF/publications/DEMOCRACY\\_PR\\_E.pdf](http://www.ipu.org/PDF/publications/DEMOCRACY_PR_E.pdf) [Accessed on 13th April, 2014]
- Bayley, H. and Turok, B. (2005) Holding Governments to Account on Commitments to Development. A Best Practice Toolkit for Parliamentarians in Africa, Europe and the West. [cited in NATO Parliamentary Assembly, 2006, G8 Commitments to Developing Countries].
- BBC News (2005) Iraq voters back new constitution. 25 October 2005. [Online]. Available at: [http://news.bbc.co.uk/1/hi/world/middle\\_east/4374822.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4374822.stm) [Accessed on 19th May, 2014]
- BBC News (2008) Iraq Profile – Timeline. [Online]. Available at: <http://www.bbc.co.uk/news/world-middle-east-14546763> [Accessed on 19th May, 2014]
- Beetham, D., Carvalho, E., Landman, T. and Weir, S. (eds.) (2008) Assessing the Quality of Democracy: A Practical Guide. Stockholm: International IDEA. [Online only.] Available at: <http://www.idea.int/publications/aqd/loader.cfm?csModule=security/getfile&pageid=28399> [Accessed on 19<sup>th</sup> January, 2016]
- Beetham, D. (2009) Democracy: universality and diversity. *Ethics & Global Politics*. Vol. 2, No. 4, 2009, pp. 281-296 Available at: <file:///C:/Users/Ramin%20Computer/Downloads/2111-6924-1-PB.pdf> [Accessed on 23th January, 2015]
- Berger, S. (2002) Communism, Social Democracy and the Democracy Gap By University of Glamorgan, Wales Available at [http://www.arbark.se/pdf\\_wrd/berger\\_int.pdf](http://www.arbark.se/pdf_wrd/berger_int.pdf) [Accessed on 25th May, 2014]
- Bermeo, N. (1999) A New Look at Federalism: The Import of Institutions. *Journal of Democracy*, Vol. 13, No. 2, pp.96–110
- Bevir, M. (2010) Governance as Theory, Practice, and Dilemma. In: Bevir, M. (ed.) *The SAGE Handbook of Governance*. Thousand Oaks, CA: SAGE.
- Bevis, G.G. (2003) Civil Society Groups and Parties: Supporting Constructive Relationships. Bureau for Democracy, Conflict, and Humanitarian Assistance, USAID. Washington, DC: United States Agency for International Development.
- Bhattacharyya, H. (2010) *Federalism in Asia: India, Pakistan and Malaysia*. London and New York: Routledge.
- Biddle, S., Friedman, J. and Shapiro, J. (2012) Testing the Surge: Why Did Violence Decline in Iraq in 2007? *International Security*, Vol. 37, No. 1, pp.7–40
- Tom Bingham (2010). *The Rule of Law*. London: Penguin, First Edition, Allen Lane.
- Boussard, C. (2003) *Crafting Democracy: Civil Society in Post-Transition Honduras*. Department of Political Science, Lund University.
- Bowen, G. (2008). Naturalistic inquiry and the saturation concept: a research note. *Qualitative Research*, Vol. 8, No. 1, pp.137–52

- Boyne, I. (2010) Why Corruption Stinks? *The Gleaner*, 12 December 2010. Available at: <http://jamaica-gleaner.com/gleaner/20101212/focus/focus3.html> [Accessed on 12th May, 2012]
- Bradley, A.W. and Ewing, K.D. (2011) *Constitutional and Administrative Law*. 15th edition. Harlow: Pearson Education Limited.
- Bratton, M., and Chang, E.C.C. (2006) State building and democratization in sub-Saharan Africa: Forwards, backwards, or together. *Comparative Political Studies*, Vol. 39, No. 9, pp.1059–83
- Bräutigam, D., Fjeldstad, O-H. and Moore, M. (eds.) (2008) *Taxation and State-Building in Developing Countries: Capacity and Consent*. Cambridge: Cambridge University Press.
- Brinkerhoff, D.W. (2000). Assessing Political Will for Anti-Corruption Efforts: An Analytic Framework. *Public Administration and Development*, Vol. 20, Issue 3, pp.239–252  
Available at: <http://info.worldbank.org/etools/docs/library/108384/session4I.pdf> [Accessed on 12th January, 2013]
- Brinkerhoff, D.W. (2010) Unpacking the concept of political will to confront corruption. U4 Brief 2010:1 for the Chr. Michelsen Institute, May 2010. Available at: <http://www.u4.no/publications/unpacking-the-concept-of-political-will-to-confront-corruption/#sthash.eUD2sFUC.dpuf> [Accessed on 12th January, 2013]
- Brunetti, A. and Weder, B. (2003) A Free Press is Bad News for Corruption. *Journal of Public Economics*, Vol. 87, Issue 7–8, pp.1801–24
- Bryce, J. (1921) *Modern Democracies*. Vol. 1. London: The Macmillan Company.
- Bryman, A. (2012) *Social Research Methods*. 4th edition. Oxford: Oxford University Press.
- Burnham, 1992
- Burnham, K.P. (2004) Foreword. In: Thompson, W.L. (ed.) *Sampling Rare or Elusive Species: Concepts, Designs and Techniques for Estimating Population Parameters*. Washington, DC: Island Press.
- Caiden, E. (1991) *Administrative Reform Comes of Age*. 1st edition. Berlin: Walter de Gruyter. Available at: <http://www.deepdyve.com> [Accessed on 4th October, 2012]
- Campos, E. and Pradhan, S. (2007) The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level: [Online]. Washington, DC: World Bank Publications.
- Carothers, T. (1998) The Rule of Law Revival. *Foreign Affairs*, Vol. 77, No. 2, pp.94–105
- Carroll, A. (2011) *Constitutional and Administrative Law*. 6th edition. Harlow: Pearson Education Limited.
- Charron, N. and Lapuente, V. (2010) Does Democracy Produce Quality of Government? *European Journal of Political Research*, Vol. 49, Issue 4, pp.443–70
- Charron, N., Dahlström, C. and Lapuente, V. (2010) No Law without a State. QoG Working Paper Series 2010:12. The Quality of Governance Institution, Department of Political Science, University of Gothenburg.

- Chase, R.S. and Anjum, A. (2008) Initiatives Supporting Demand for Good Governance (DFGG) Across World Bank Group Sectors and Regions. Final Draft – Demand for Good Governance Stocktaking Report. Community Driven Development & Local Governance Team, Social Development Department, The World Bank. Available at: [http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2013/06/19/000442464\\_20130619111948/Rendered/PDF/785500ESW0whit0Box0377345B00PUBLIC0.pdf](http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2013/06/19/000442464_20130619111948/Rendered/PDF/785500ESW0whit0Box0377345B00PUBLIC0.pdf) [Accessed on 13th January, 2014]
- Chen, A.H.Y. (2007) A Tale of Two Islands: Comparative Reflections on Constitutionalism in Hong Kong and Taiwan. *Hong Kong Law Journal*, Vol. 37, No. 2, pp.647–88
- Chetwynd, E., Chetwynd, F. and Spector, B. (2003) Corruption and Poverty: A Review of Recent Literature. Final Report. Washington, DC: Management Systems International. Available at: <http://www.eldis.org/vfile/upload/1/document/0708/DOC14285.pdf> [Accessed on 2nd February, 2012]
- Chowdhury, K. (2004) The effect of democracy and press freedom on corruption: An empirical test. *Economics Letters*, Vol. 85, Issue 1, pp.93–101
- Coffey, A & Atkinson, P (1996). Making sense of qualitative data: Complementary Research Strategies. *Thousand Oaks*, CA: Sage.
- Cogen, M. and De Brabandere, E. (2007) Democratic Governance and Post-Conflict Reconstruction. *Leiden Journal of International Law*, Vol. 20, No. 3, 669–93
- Coglianesi, C. (2009) The Transparency President? The Obama Administration and Open Government. *Governance*, Vol. 22, No. 4, pp.529–44. Available at: <http://www.meida.org.il/wp-content/uploads/2009/09/Obana%20and%20Transparency.PDF> [Accessed on 2nd December, 2012]
- Cohen, L., Manion, L. and Morrison, K. (2000) *Research Methods in Education*. 5th edition. London: RoutledgeFalmer.
- Collier, P. (2009) *Wars, Guns, and Votes: Democracy in Dangerous Places*. New York, NY: Harper Collins.
- Collis, J. and Hussey, R. (2003) *Business Research: A Practical Guide for Undergraduate and Postgraduate Students*. Basingstoke: Palgrave Macmillan.
- Cooray, L.J.M. (1971) *Reflections on the Constitution and the Constituent Assembly*. Colombo: Hansa Publishers.
- Cooray, L.J.M. (1979) *Conventions, The Australian Constitution and the Future*. Sydney: Legal Books
- Cooray, L.J.M. (1988) The Role of a Constitution: Extra-Constitutional Limitations on Government Power. [Online]. Available at: <http://www.ourcivilisation.com/cooray/btof/index17.htm> [Accessed 1st April, 2014]

- Cordesman, A. and Khazai, S. (2014) *Iraq in Crisis* Washington, DC: Centre for Strategic and International Studies. Available at [http://csis.org/files/publication/130106\\_Iraq\\_Book\\_AHC-sm.pdf](http://csis.org/files/publication/130106_Iraq_Book_AHC-sm.pdf) [Accessed on 21st April, 2015]
- Crosby, P. B. (1996) *Quality is Still Free: Making Quality Certain in Uncertain Times*. New York: McGraw-Hill.
- CSIS/AUSA (2002) Meeting the Challenges of Governance and Participation in Post-Conflict Settings. Center for Strategic and International Studies and Association of the United States Army (AUSA). Available at: <http://www.csis.org/isp/pcr/governancepaper.pdf> [Accessed on 8th October, 2013]
- Cudworth, E., Hall, T. and McGovern, J. (2007) *The Modern State: Theories and Ideologies*. Edinburgh: Edinburgh University Press.
- Cunningham, N. (2014) Iraqi Government Threatens Action Against Kurds as Oil Exports Set to Begin. OilPrice.com 28 January 2014. [Online]. Available at: <http://oilprice.com/Geopolitics/Middle-East/Iraqi-Government-Threatens-Action-Against-Kurds-as-Oil-Exports-Set-to-Begin.html> [Accessed on 13th April, 2014]
- Curtin, D. and Meijer, A.J. (2006) Does transparency strengthen legitimacy? A critical analysis of European Union policy documents. *Information Polity*, Vol. 11, Issue 2, pp.109–22. Available at: [http://info-a.wdfiles.com/local--files/resursi/Curtin.Meijer\\_Does%20transparency%20strengthen%20legitimacy.pdf](http://info-a.wdfiles.com/local--files/resursi/Curtin.Meijer_Does%20transparency%20strengthen%20legitimacy.pdf) [Accessed on 2nd December, 2012]
- Dagher, S. (2008) Can the U.N. Avert a Kirkuk Border War? *The Christian Science Monitor*, 25 April 2008. Available at: <http://www.institutkurde.org/en/info/can-the-un-avert-a-kirkuk-border-war-1209486568.html> [Accessed on 23rd October, 2013]
- Dahl, R.A. (1957) The Concept of Power. *Behavioral Science*, Vol. 2, No. 3, pp.201–15
- Dahl, R.A. (1961) *Who Governs? Democracy and Power in an American City*. New Haven, CT: Yale University Press.
- Dahl, R.A. (1971) *Polyarchy: Participation and Opposition*. New Haven, CT: Yale University Press.
- Dahl, R.A. (1985) *Preface to Economic Democracy*. Berkeley, CA: University of California.
- Dahl, R.A. (1989) *Democracy and Its Critics*. New Haven, CT: Yale University Press.
- Dahl, R.A. (1998) *On Democracy*. New Haven, CT and London: Yale University Press.
- Dahl, R.A. (1999) Can International Organizations Be Democratic? A Skeptic's View. In: Shapiro, I. and Hacker-Cordón, C. (eds.), *Democracy's Edges*. Cambridge: Cambridge University Press.
- Dahl, R.A. (2006) *On Political Equality*. New Haven, CT: Yale University Press.
- Daniel Lambach, Eva Johais & Markus Bayer (2015) Conceptualising state collapse: an institutionalist approach, *Third World Quarterly*, 36:7, 1299-1315, Available at <http://www.tandfonline.com/doi/pdf/10.1080/01436597.2015.1038338> [Accessed on 3th December, 2015]

- De Castro Santos, M.H. and Tavares Teixeira, U. (2014) Is It Possible to Export Democracy by the Use of Force? Military Interventions in Iraq and Libya. Prepared for the Panel “Foreign Policy Challenges of the 21st Century” of the FLACSO-ISA Joint International Conference “Global and Regional Powers in a Changing World”, Buenos Aires, Argentina, 23–25 July 2014. Available at: <http://web.isanet.org/Web/Conferences/FLACSO-ISA%20BuenosAires%202014/Archive/db7cec23-2c05-4335-9970-58935298e125.pdf> [Accessed on 8th February, 2015]
- Debiel, T. and Terlinden, U. (2005) Promoting Good Governance in Post-Conflict Societies. Discussion Paper. State and Democracy Division, Project on Democracy and the Rule of Law. Eschborn, Germany: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH.
- Debusmann, B. (2007). Tourists and Investors to Iraq? Why not say Kurds. Reuters, 8 August 2007. Available at: <http://www.reuters.com/article/us-iraq-kurdistan-idUSN0239955720070808> [Accessed on 14th July, 2012]
- Devine, F. (2002) Qualitative methods. In Marsh, D. and Stoker, G. (eds.) *Theory and methods in political science*. 2nd edition. New York, NY: Palgrave Macmillan.
- Dewey, J. (1927) *The Public and Its Problems*. New York, NY: H. Holt and Company.
- Diamond, L. (1999) *Developing democracy: Toward consolidation*. Baltimore: The Johns Hopkins University Press.
- Diamond, L. (2002) Elections without Democracy. *Journal of Democracy*, Vol. 13, No. 2, pp.21–36
- Diamond, L., Linz, J.L. and Lipset, S.M. (1995) *Politics in Developing Countries: Comparing experiences with democracy*. 2nd edition. Boulder, CO and London: Lynne Rienner Publishers.
- Dicey, A.V. (1885) *An Introduction to the Study of the Law of the Constitution*. 8<sup>th</sup> edition. London: Macmillan.
- DLIFLC [Defense Language Institute Foreign Language Center] (2011) Iraq in Prospective: An Orientation Guide. Available at: <https://fieldsupport.lingnet.org/products/cip/Iraq/iraq.pdf> [Accessed on 19th May, 2014]
- Dollar, D., Fisman, R. and Gatti, R. (2001) Are women really the ‘fairer’ sex? Corruption and women in government. *Journal of Economic Behavior & Organization*, Vol. 46, Issue 4, pp.423–9
- Dorn, D., Fischer, J.A.V., Kirchgässner, G. and Sousa-Poza, A. (2007) Is it Culture or Democracy? The Impact of Democracy and Culture on Happiness. *Social Indicators Research*, Vol. 82, No. 3, pp.505–26
- Draft Constitution of Kurdistan Region–Iraq (2009)
- Edwards, M. (2009) *Civil Society*. Cambridge: Polity Press.
- Elazar, D.J. (1987) *Exploring Federalism*. Tuscaloosa, AL: University of Alabama Press.
- El-Khawas, M.A. (2008) Nation Building in a War Zone: The US Record in Iraq, 2003–2007. *Mediterranean Quarterly*, Vol. 19, No. 1, pp.42–62. Available at: <http://www.constitutionnet.org/files/el-khawas%20US%20in%20Iraq.pdf> [Accessed on 9th November, 2013]

- EPIC [The Education for Peace in Iraq Centre] (2012) The Changing U.S. Role in Iraq and the Future of Iraqi Civil Society. [Online]. Available at <http://www.epic-usa.org/wordpress/wp-content/uploads/2012/11/EPIC-ROA-event-a.pdf> [Accessed on 6th December, 2013]
- Eriksson, S. (2007) The example of Åland: Autonomy as a minority protector. This Is Finland. [Online]. Available at: <http://finland.fi/Public/default.aspx?contentid=160122> [Accessed on 13th June, 2014]
- Esposito, J.L. (1983) Muhammad Iqbal and the Islamic State. In: Esposito, J.L. (ed.) *Voices of Resurgent Islam*. New York: Oxford University Press.
- Fawcett, J. and Tanner, V. (2002) The Internally Displaced People of Iraq. An Occasional Paper. Washington, DC: The Brookings Institution–SAIS Project on Internal Displacement.
- Feinberg, R., Waisman, C.H. and Zamosc, L. (eds.) (2006) *Civil Society and Democracy in Latin America*. New York: Palgrave Macmillan.  
Available at: <http://pdfs.riothero.com/venezuela/1403972281.pdf#page=94>. [Accessed on 9th April, 2014]
- Feldman, N. and Martinez, R. (2006) Constitutional Politics and Text in the New Iraq: An Experiment in Islamic Democracy. *Fordham Law Review*, Vol. 75, Issue 2, pp.883–920  
Available at:  
<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4211&context=flr> [Accessed on 12th November, 2012]
- Finer, S.E., Bogdanor, V. and Runnen, B. (1995) *Comparing Constitutions*. Oxford: Oxford University Press.
- Fisman, R. and Gatti, R. (2002) Decentralization and Corruption: Evidence from U.S. Federal Transfer Programs. *Public Choice*, Vol. 113, Issue 1, pp.25–35
- Fjelde, H. (2009) Buying Peace? Oil Wealth, Corruption and Civil War 1985–99. *Journal of Peace Research*, Vol. 46, No. 2, pp.199–218  
Available at <http://www.saramitchell.org/fjelde.pdf> [Accessed on 14th June, 2014]
- Fogelman, K. and Comber, C. (2002) Surveys and Sampling. In: Briggs, A. and Coleman, M. (eds.) *Research Methods in Educational Leadership and Management*. London: SAGE Publications Ltd.
- Fortunato, P. and Panizza, U. (2012) Democracy, Education and the Quality of Government. *Journal of Economic Growth*, Vol. 20, Issue 4, pp.333–63
- Foster, J. F. (1981) The Reality of the Present and the Challenge of the Future. *Journal of Economic Issues*, Vol. XV No. 4, pp.963–8
- Freedom House (2009) Country Reports: Iraq. Available at:  
<https://freedomhouse.org/report/freedom-world/2009/iraq> [Accessed on 2nd July, 2012]
- Freedom House (2012) Kurdistan. Freedom in the World 2012. Available at:  
[www.freedomhouse.org](http://www.freedomhouse.org) [Accessed on 11th November, 2012]
- Freille, S., Haque, M.E. and Kneller, R. (2007) A contribution to the empirics of press freedom and corruption. *European Journal of Political Economy*, Vol. 23, Issue 4, pp.838–62. [Online]. Available at: [www.sciencedirect.com](http://www.sciencedirect.com) [Accessed on 19th November, 2012]



- Frey, B.S. and Stutzer, A. (2002) The Economics of Happiness. *World Economics*, Vol. 3, No. 1.  
Available at: [https://bsfrey.ch/articles/365\\_02.pdf](https://bsfrey.ch/articles/365_02.pdf) [Accessed on 14th December, 2012]
- Fritzen, S. (2006) Beyond “Political Will”: How Institutional Context Shapes the Implementation of Anti-Corruption Policies. *Policy and Society*, Vol. 24, No. 3, pp.79–96  
Available at: <http://lkyspp.nus.edu.sg/wp-content/uploads/2013/04/fritzen-PS.pdf> [Accessed on 12th February, 2013]
- Fuentes, C. (2004) México: La historia de su democracia. [TV mini-series]. Part 1. Mexico City: Televisa.
- Fukuyama, F. (1989) The End of History? *The National Interest*, Summer 1989.  
Available at: <https://ps321.community.uaf.edu/files/2012/10/Fukuyama-End-of-history-article.pdf> [Accessed on 12th May, 2014]
- Gairdner, D. (2012) Risk and violence in Iraq’s new sectarian balance. Report for NOREF [Norwegian Peacebuilding Resource Centre]. Available at: [http://www.peacebuilding.no/var/ezflow\\_site/storage/original/application/bf7e211535d7948a0ec0522b89d6a392.pdf](http://www.peacebuilding.no/var/ezflow_site/storage/original/application/bf7e211535d7948a0ec0522b89d6a392.pdf) [Accessed on 3rd January, 2013]
- Gerring, J. and Thacker, S.C. (2004) Political Institutions and Corruption: The Role of Unitarism and Parliamentarism. *British Journal of Political Science*, Vol. 34, No. 2, pp.295–330
- Gerson, K. and Horowitz, R. (2002) Observation and Interviewing: Options and Choices. In: May, T. (ed.) *Qualitative Research in Action*. London: SAGE.
- Ghai, Y. (2003) Unitary or Federal: A False Choice? Decentralisation of powers in Afghanistan. Options Paper for the Afghan Constitutional Commission. Center on International Cooperation, New York University. Available at: <http://cic.nyu.edu/> [Accessed on 14th March, 2013]
- Gillespie, K. (2006) The Middle East’s Corruption Conundrum. *Current History*, Vol. 105, No. 687, pp.40–7 [Online]. Available at: [http://www.currenthistory.com/pdf\\_org\\_files/105\\_687\\_40.pdf](http://www.currenthistory.com/pdf_org_files/105_687_40.pdf) [Accessed on 1st March, 2012]
- Glaser, B. and Strauss, A. (1967) *The Discovery of Grounded Theory*. Chicago: Aldine.
- Global Integrity (2008) Global Integrity Report: Iraq.  
Available at: <https://www.globalintegrity.org/wp-content/.../08/KeyFindings2008.pdf> [Accessed on 12th August, 2012]
- Global Justice Project (2009) The Judiciary and the Law in the Kurdistan Region of Iraq. S.J. Quinney College of Law, University of Utah. Available at: <http://gjpi.org/2009/08/14/the-judiciary-and-the-law-in-the-kurdistan-region-of-iraq/> [Accessed on 14th August, 2013]
- Goel, K. and Nelson, A. (1998) Corruption and Government Size: A Disaggregated Analysis. *Public Choice*, Vol. 97, Nos. 1–2, pp.107–20  
Available at: <http://www.jstor.org/stable/30024416> [Accessed on 1st March, 2012]
- Gomm, R. (2004) *Social Research Methodology: A Critical Introduction*. Basingstoke: Palgrave Macmillan.

- Gray, C.W. (2012) *Petrocapitalism in Iraqi Kurdistan: Leveraging Oil and Gas Firms in Post-War Iraq*. Thesis for Bachelor's degree. Claremont McKenna College. Available at: [http://scholarship.claremont.edu/cmc\\_theses/337/](http://scholarship.claremont.edu/cmc_theses/337/) [Accessed on 14th January, 2016]
- Grimes, M. (2008) The conditions of successful civil society involvement in combating corruption: A survey of case study evidence. QoG Working Paper Series. The Quality of Government Institute. Department of Political Science. University of Gothenburg. Box 711 SE 405 30 Available at: [http://www.qog.pol.gu.se/digitalAssets/1350/1350673\\_2008\\_22\\_grimes.pdf](http://www.qog.pol.gu.se/digitalAssets/1350/1350673_2008_22_grimes.pdf) [Accessed on 15th May, 2016]
- Gülen, F. A (2006) Comparative Approach to Islam and Democracy. In: Kamrava, M. (ed.) *The New Voices of Islam: Reforming Politics and Modernity. A Reader*. New York and London: I.B. Tauris.
- Gunter, M.M. and Yavuz, M.H. (2005) The Continuing Crisis in Iraqi Kurdistan. *Middle East Policy*, Vol. XII, No. 1, pp.122–33
- Gupta, A. (1995) Blurred boundaries: the discourse of corruption, the culture of politics, and the imagined state. *American Ethnologist*, Vol. 22 (2), 375-402.
- Gupta, S., Davoodi, H. and Alonso-Terme, R. (1998) Does Corruption Affect Income Equality and Poverty? IMF Working Paper WP/98/76. Washington, DC: International Monetary Fund.
- Gupta, S., Davoodi, H. and Tiongson, E. (2000) Corruption and the Provision of Health Care and Education Services. IMF Working Paper WP/00/116. Washington, DC: International Monetary Fund.
- Gurr, T.R. (1994) Peoples against States: Ethnopolitical Conflict and the Changing World System. 1994 Presidential Address. *International Studies Quarterly*, Vol. 38, No. 3, pp.347–77
- Haber, S. and Menaldo, V. (2010) Do Natural Resources Fuel Authoritarianism? A Reappraisal of the Resource Curse. *American Political Science Review*, Vol. 105, No. 1, pp.1–26
- Haidar, N. (2013) KRG to use water consumption meters to cut water wastage. *The Kurdistan Tribune*, 11 August 2013. Available at: <http://kurdistantribune.com/2013/krge-use-water-consumption-meters-cut-water-wastage/> [Accessed on 4th April, 2014]
- Hale, H.E. (2004) Divided We Stand: Institutional Sources of Ethnofederal State Survival and Collapse. *World Politics*, Vol. 56, No. 2, pp.165–93
- Halfani, M.P., McCarney, P. and Rodriguez, A. (1994) Towards an understanding of governance: the emergence of an idea. In: R. Stren (ed.) *Urban research in the developing world*. Toronto: University of Toronto.
- Hardi, A. (2011) The roots of many of our political parties are based on totalitarianism. CHRA TV, 1 November 2011. Available at: <http://chra.tv/news/index.php/articles/articles/articles/7756-2011-10-01-07-33-47> [Accessed on 20th October, 2012]
- Hardi, R.A. (2013) Interview with KNN TV channel, 23 January 2013.

- Hartzell, C., Hoddie, M. and Rothchild, D. (2001) Stabilizing the Peace After Civil War: An Investigating of Some Key Variables. *International Organization*, Vol. 55, No. 1, pp.183–208
- Hassan, K. (2015) Kurdistan's Politicized Society Confronts a Sultanistic System. Carnegie Middle East Centre. 18 August 2015. [Online]. Available at: <http://carnegie-mec.org/2015/08/17/kurdistan-s-politicized-society-confronts-sultanistic-system/ieta>
- Hawramy, F. and Beaumont, P. (2014) Iraqi Kurdish forces take Kirkuk as Isis sets its sights on Baghdad. *The Guardian*, 12 June 2014. Available at: <http://www.theguardian.com/world/2014/jun/12/iraq-isis-kirkuk-baghdad-kurdish-government> [Accessed on 3rd July, 2014]
- Hayek, F. (1960) *The Constitution of Liberty*. Chicago: University of Chicago Press.
- Held, D. 1996. *Models of Democracy*. Cambridge: Polity Press.
- Helliwell, J.F. and Huang, H. (2008) How's Your Government? International Evidence Linking Good Government and Well-Being. *British Journal of Political Science*, Vol. 38, No. 4, pp.595–619
- Helman, G.B. and Ratner, S.R. (1992) Saving Failed States. *Foreign Policy*, No. 89, pp.3–20
- Hinnebusch, R. (2007) The American Invasion of Iraq: Causes and Consequences. *Perceptions*, Vol. 12, No. 1, pp.9–27  
Available at <http://sam.gov.tr/wp-content/uploads/2012/01/Raymond-Hinnebusch.pdf>
- Hitchens, C. (2007) Holiday in Iraq. *Vanity Fair* (UK), 31 March 2007. Available at: <http://www.vanityfair.com/news/2007/04/hitchens200704> [Accessed on 17th July, 2012]
- Hobbes, T. (1651) *Leviathan*.
- Hollyer James R. (2010) Patronage or Merit? Bureaucratic Recruitment in 19<sup>th</sup> and Early 20th Century Europe. September 2010. Available at: [http://www.tc.umn.edu/~jhollyer/PatronageMerit19th20thCEurope\\_v2.pdf](http://www.tc.umn.edu/~jhollyer/PatronageMerit19th20thCEurope_v2.pdf) [Accessed on 22th January, 2013]
- Holmberg, S. and Rothstein, B. (2010) Quality of Government is Needed to Reduce Poverty and Economic Inequality. QoG Working Paper Series 2010:3. The Quality of Governance Institution, Department of Political Science, University of Gothenburg. Available at: [http://qog.pol.gu.se/digitalAssets/1350/1350124\\_2010\\_3\\_holmberg\\_rothstein.pdf](http://qog.pol.gu.se/digitalAssets/1350/1350124_2010_3_holmberg_rothstein.pdf) [Accessed on 4th January, 2013]
- Holmberg, S., Rothstein, B. and Nasiritousi, N. (2008) Quality of Government: What You Get. QoG Working Paper Series 2008:21. The Quality of Governance Institution, Department of Political Science, University of Gothenburg. Available at: [http://qog.pol.gu.se/digitalAssets/1350/1350644\\_2008\\_21\\_holmberg\\_rothstein\\_nasiritousi.pdf](http://qog.pol.gu.se/digitalAssets/1350/1350644_2008_21_holmberg_rothstein_nasiritousi.pdf) [Accessed on 12th December, 2012]
- Howlett, M. (2009) Governance Modes, Policy Regimes and Operational Plans: A Multi-Level Nested Model of Policy Instrument Choice and Policy Design. *Policy Sciences*, Vol. 42, No. 1, pp.73–89

- Hubbs, G. (2014) Transparency, Corruption, and Democratic Institutions. *Les ateliers de l'éthique/The Ethics Forum*, Vol. 9, No. 1, pp.65–83  
Available at <https://www.erudit.org/revue/ateliers/2014/v9/n1/1024295ar.pdf> [Accessed on 5th September, 2015]
- Human Rights Watch (2013) World Report 2013: Iraq. Available at: <https://www.hrw.org/world-report/2013/country-chapters/iraq> [Accessed on 8th November, 2013]
- Hunter, R. and Johnstone, R. (eds.) (1995) *Thinking About Law: Perspectives on the History, Philosophy and Sociology of Law*. London: Allen & Unwin.
- Huntington, S.P. (1968) *Political Order in Changing Societies*. New Haven, CT: Yale University Press.
- Huntington, S. P. (1991) *The Third Wave: Democratization in the Late Twentieth Century*. Norman, OK and London: University of Oklahoma Press.
- Huntington, S.P. (1996) *The Clash of Civilizations and the Remaking of World Order*. New York, NY: Simon & Schuster.
- Hurriyet Daily News* (2013) KRG oil revenues to cumulate in US bank. Available at: <http://www.hurriyetdailynews.com/krg-oil-revenues-to-cumulate-in-us-bank.aspx?pageID=517&nID=60295&NewsCatID=348> [Accessed on 12th June, 2014]
- Hussain (2015) The details of resignation application of Farhad Hussain, the Director of Public Prosecutions of Sulaymaniya office. *Hawlati* newspaper, 8 January 2015.  
Available at <http://hawlati.co/%D8%A6%DB%95%D8%B1%D8%B4%DB%8C%DA%A4%DB%95%DA%A9%D8%A7%D9%86/63501> [Accessed on 8th August, 2015]
- Husted, B.W. (1999) Wealth, Culture, and Corruption. *Journal of International Business Studies*, Vol. 30, No. 2, pp.339–59
- Hyden, G., and Olowu, D. and Okoth-Ogendo, H.W.O. (2000) *African Perspectives on Governance*. Africa World Press.
- IEITI [Iraqi Extractive Industries Transparency Initiative] (2013) Oil Export and Field Development Revenues in 2010. Available at: [https://eiti.org/files/IEITI%202010%20English%20Final%20Report%20\(15%20May%202013\).pdf](https://eiti.org/files/IEITI%202010%20English%20Final%20Report%20(15%20May%202013).pdf) [Accessed on 24th May, 2012]
- IFJ [International Federation of Journalists] (2013) IFJ Urges President of Kurdistan Region of Iraq to Investigate Murder of Journalist Kawa Garmyani. Available at: <http://www.ifj.org/nc/news-single-view/category/news/article/ifj-urges-president-of-kurdistan-region-of-iraq-to-investigate-murder-of-journalist-kawa-garmyani/> [Accessed on 24th June, 2014]
- Iraq Anti-Money Laundering Law (2004). Available at: [http://www.iraqcoalition.org/regulations/20040603\\_CPAORD\\_93\\_Anti-Money\\_Laundering\\_Act\\_of\\_2004\\_with\\_Annex.pdf](http://www.iraqcoalition.org/regulations/20040603_CPAORD_93_Anti-Money_Laundering_Act_of_2004_with_Annex.pdf) [Accessed on 2nd December, 2013]
- Iraq Constitution (2005) available at: [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf)
- Iraq Federal Supreme Court Decision no. 44 to Appeal Law no. 18. Available at: <http://www.iraq-lg-law.org/en/content/federal-supreme-court-decision-no-44-appeal-law-no-18> [Accessed on 13th July, 2015]

- Iraq Interim Constitution (1970) Available at: <http://www.hrcr.org/hottopics/statute/scans/iraql.pdf> [Accessed on 24th December, 2012]
- Iraq Penal Code (1969) Available at: [http://www.iraq-lg-law.org/en/webfm\\_send/1350](http://www.iraq-lg-law.org/en/webfm_send/1350) [Accessed on 25th December, 2012]
- Jabary, K. (2013) *The Politics of Low Capacity: The Case of Kurdistan*. Master's thesis. Department of Political Science, Faculty of Arts and Social Sciences, Simon Fraser University.
- Jabary, K. and Hira, A. (2013) The Kurdish Mirage: A Success Story in Doubt. *Middle East Policy*, Vol. 20, No. 2, pp.99–112
- Jakobsen, T.G. (2013) Why Did the United States Invade Iraq in 2003? Popular Social Science. [Online]. Available at: <http://www.popularsocialscience.com/2012/10/25/why-did-the-united-states-invade-iraq-in-2003-2/> [Accessed on 24th May, 2014]
- Jankowski, N. and Wester, F. (1991) The qualitative tradition in social Science inquiry contributions to mass communication research. In: K. Jensen and N. Jankowski. *A Handbook of Qualitative Methodologies for Mass Communication Research*. London: Routledge.
- Jawad, S.N. (2005) The Iraqi Constitution: Structural Flaws and Political Implications. LSE Middle East Centre Paper Series/01. Available at: <http://www.lse.ac.uk/middleEastCentre/publications/Paper-Series/Iraqi-Constitution.aspx> [Accessed on 14th June, 2014]
- Jennings, R.S. (2003) The Road Ahead: Lessons in Nation Building from Japan, Germany, and Afghanistan for Postwar Iraq. *Peaceworks*, No. 49. Washington, DC: United States Institute of Peace [USIP].
- Joshi, M. (2010) What is the difference between State and Government? [Online]. Available at: <http://www.preservearticles.com/201012241588/what-is-the-difference-between-state-and-government.html> [Accessed on 11th September, 2013]
- Karem, H. and Chomani, K. (2015) The KRG Economy: Booming or Dooming? *The Kurdistan Tribune*, 8 March 2015. [Online]. Available at: <http://kurdistantribune.com/2015/krgeconomy-booming-or-dooming/> [Accessed on 2nd December, 2015]
- Karim, A. (2008) Corruption: the cancer of society. [Online]. Available at: <http://www.krg.org/> [Accessed on 12th February, 2014]
- Karim, A. (2010a) Human rights in Kurdistan and corruption. [Online]. Available at: <http://www.awene.com/awene.aspx> [Accessed on 12th February, 2012]
- Karim, A. (2013) Interview with Ali Karim. NRT TV, 10 December 2013. Available at: <https://www.youtube.com/watch?v=8UasF-wmjaA> [Accessed on 24th October, 2014]
- Karim, A. (2010b) Corruption in Kurdistan. [Online]. Available at: <http://www.kurdishaspect.com/doc051210KA.html> [Accessed on 11th December, 2011]
- Katzman, K. (2008) The Kurds in Post-Saddam Iraq. Washington, DC: Congressional Research Service. Available at: <http://fpc.state.gov/documents/organization/101816.pdf> [Accessed on 12th November, 2014]

- Katzman, K. (2009) Iraq: Post-Saddam Governance and Security. Washington, DC: Congressional Research Service. Available at: <https://www.fas.org/sgp/crs/mideast/RL31339.pdf> [Accessed on 12th November, 2014]
- Katzman, K. (2010) Kurds in Post-Saddam Governance and Security. Washington, DC: Congressional Research Service. Available at: <https://www.fas.org/sgp/crs/mideast/RS22079.pdf> [Accessed on 13th November, 2014]
- Katzman, K. (2011) Iraq: Politics, Governance, and Human Rights. Washington, DC: Congressional Research Service. Available at: <http://fpc.state.gov/documents/organization/169064.pdf> [Accessed on 28th July, 2014]
- Katzman, K. and Humud, C. (2014) Iraq: Politics and Governance. Congressional Research Service. Washington, DC: Library of Congress. Available at [www.fas.org/sgp/crs/mideast/RS21968.pdf](http://www.fas.org/sgp/crs/mideast/RS21968.pdf) [Accessed on 20th April, 2014]
- Katzman, K. and Prados, A.B. (2005) The Kurds in Post-Saddam Iraq. Congressional Research Service. Washington, DC: Library of Congress.
- Kaufmann, C. (1996) Possible and Impossible Solutions to Ethnic Civil Wars. *International Security*, Vol. 20, No. 4, pp.136–75
- Kaufmann, D. and Kraay, A. (2008) Governance Indicators: Where Are We, Where Should We Be Going? *The World Bank Researcher Observer*, Vol. 23, No. 1, pp.1–30
- Kaufmann, D., Kraay, A., and Zoido-Lobaton, P. (1999) Governance Matters. Policy Research Working Paper 2196. Washington, DC: World Bank Institute.
- Keefer, P. (2007) Clientelism, Credibility, and the Policy Choices of Young Democracies. *American Journal of Political Science*, Vol. 51, No. 4, pp.804–21
- Kelly, K. (1996) An Independent Judiciary: The Core of the Rule of Law. Rule of Law in the United States. [Online]. Available at: [http://www.ruleoflawus.info/Judiciary/An\\_Independant\\_Judiciary.pdf](http://www.ruleoflawus.info/Judiciary/An_Independant_Judiciary.pdf) [Accessed on 12th February, 2013]
- Kelly, M.J. (2010) The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: A Struggle for Sovereignty, Oil, Ethnic Identity, and the Prospects for a Reverse Supremacy Clause. *Penn State Law Review*, Vol. 114, No. 3, pp.708–808  
Available at: <http://www.pennstatelawreview.org/articles/114/114%20Penn%20St.%20L.%20Rev.%20707.pdf> [Accessed on 30th March, 2014]
- Kent, G. (2012) Tactical tantrums in Iraq. *Progress*. 11 December 2012. [Online]. Available at: <http://www.progressonline.org.uk/2012/12/11/tactical-tantrums-in-iraq/> [Accessed on 22nd December, 2012]
- Khalil, L. (2009) Stability in Iraqi Kurdistan: Reality or Mirage? Working Paper Number 2. The Saban Center for Middle East Policy at the Brookings Institution. [Online]. Available at: [http://www.kurdistaninvestment.org/docs/kurdistan\\_khalil.pdf](http://www.kurdistaninvestment.org/docs/kurdistan_khalil.pdf) [Accessed on 6th November, 2013]
- Khan, M.H. (2005) Markets, States and Democracy: Patron–Client Networks and the Case for Democracy in Developing Countries. *Democratization*, Vol. 12, Issue 5, pp.704–24

- Kilcullen, J. (2006) Max Weber: On Bureaucracy. [Online]. Available at: <http://www.humanities.mq.edu.au/Ockham/y64l09.html>. [Accessed on 1st March, 2011]
- Kim, M. (2008) Spiritual Values, Religious Practices, and Democratic Attitudes. *Politics and Religion*, Vol. 1, No. 3, pp.506–8
- Klitgaard, R. (1988) *Controlling Corruption*. Berkeley, CA: University of California Press.
- Knights, M. (2009). ‘Managed Democracy’ Gives Way in Iraqi Kurdistan. *Policy Watch* 1563. Washington, DC: The Washington Institute. Available at: <http://www.washingtoninstitute.org/policy-analysis/view/managed-democracy-gives-way-in-iraqi-kurdistan> [Accessed on 14th December, 2013]
- Kolhatkar, S. (2004) Afghan Women Continue to Fend for Themselves. FPIF [Foreign Policy in Focus] Special Report. Available at: <http://www.cmi.no/pdf/?file=/afghanistan/doc/ACF74.pdf> [Accessed on 5th April, 2014]
- Kolstad, I. and Wiig, A. (2011) Does Democracy Reduce Corruption. Working Paper 2011:4. Bergen, Norway: Chr. Michelsen Institute. Available at: <http://www.cmi.no/publications/file/4315-does-democracy-reduce-corruption.pdf> [Accessed on 11th December, 2014]
- Kpundeh, S.J. (2000) Corruption and Corruption Control in Africa. Paper prepared for Gulbenkian Foundation workshop “Democracy and Development in Africa,” Lisbon, 23–24 June 2000. Available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.595.4791&rep=rep1&type=pdf> [Accessed on 19th December, 2012]
- KRG (2009) British Parliamentarians launch report on Kurdistan Region. KRG press release, 15 July 2009. Available at: <http://cabinet.gov.krd/a/d.aspx?a=30547&l=12&r=223&s=010000> [Accessed May 2014]
- KRG (2012) Report of the Kurdistan Region Reform Commission (KRRC) prepared for the President of KRG. Available at: <http://cabinet.gov.krd/a/d.aspx?s=010000&l=14&a=43386> [Accessed on 12th March, 2012]
- KRG (2013a) About the Kurdistan Regional Government. [Online]. Available at <http://cabinet.gov.krd/p/p.aspx?l=12&p=224> [Accessed on 6th December, 2013]
- KRG (2013b) Prime Minister states support for independent judiciary at inauguration of Judicial Council headquarters. Available at: <http://cabinet.gov.krd/a/print.aspx?l=12&smap=010000&a=29607> [Accessed on 6th December, 2013]
- KRG Invest in Kurdistan (2013). Good Governance and Transparency Initiative. Available at <http://belkib.com/transparency-initiative.html> [Accessed on 6th December, 2013]
- KRG Ministry of Finance (2012) The 2012 Budget of Kurdistan. Available at <http://www.mof-kr.org/files/articles/160812062555.pdf> [Accessed on 17th December, 2014]

- KRG Ministry of Natural Resources (2014) The Supreme Federal Court rules against Iraqi Minister of Oil's request to prevent KRG oil exports. Press release, 27 June 2014. Available at: <http://mnr.krg.org/index.php/en/press-releases/385-the-supreme-federal-court-rules-against-iraqi-minister-of-oil-s-request-to-prevent-krg-oil-exports> [Accessed on 9th September, 2014]
- KRG Ministry of Planning (n.d.) Kurdistan Region of Iraq 2020 (plan). Available at: [http://www.iraq-jccme.jp/pdf/archives/krg\\_2020\\_english.pdf](http://www.iraq-jccme.jp/pdf/archives/krg_2020_english.pdf) [Accessed on 14th January, 2016]
- KRG website (2014) Available at: <http://cabinet.gov.krd/index.php/ku> [Accessed on 13th May, 2015]
- Ekurd Daily (2015) Iraqi Kurdistan government faces financial crisis with \$17 billion debt. Available at: <http://ekurd.net/iraqi-kurdistan-government-faces-financial-crisis-with-17-billion-debt-2015-04-12> [Accessed on 13th January, 2016]
- Kurdish Media (2009) Support Committee for Free Elections in Kurdistan. Available at: <http://www.kurdmedia.com/article.aspx?id=15717> [Accessed on 29th, November 2013]
- Kurdistan Press Act (2008). Available at: <http://gipi.org/wp-content/uploads/2009/01/press-law-in-the-kurdistan-region.pdf> [Accessed on 12th November, 2014]
- Kvale, S. and Brinkmann, S. (2009) Interviews. In: Bevir, M. (ed.) *Encyclopedia of Governance*. Thousand Oaks, CA: SAGE.
- Kwok, Tony. M.-W. (2012) Successful Anti-Corruption Strategy, Effective Investigation and the Role of Government Agencies in Combating Corruption. 15th UNAFEI UNCAC Training Programme Visiting Experts' Papers. Resource Material Series No.89, pp.99–111  
Available at: [http://www.unafei.or.jp/english/pdf/RS\\_No89/No89\\_VE\\_Man-wai.pdf](http://www.unafei.or.jp/english/pdf/RS_No89/No89_VE_Man-wai.pdf) [Accessed on 12th November, 2013]
- Landell-Mills, P. and Serageldin, I. (1991) Governance and the External Factor. In: Proceedings of the World Bank Annual Conference on Development Economics 1991. Supplement to The World Bank Economic Review and The World Bank Research Observer. Washington, DC: World Bank.
- La Porta, R., Lopez-de-Silanes, F., Shleifer, A. and Vishny, R. (1999) The quality of government. *Journal of Law, Economics and Organization*, Vol. 15, No. 1, pp.222–79
- Large, J. and Sisk, T.D. (2006) Democracy, Conflict and Human Security: Pursuing Peace in the 21st Century. International Institute for Democracy and Electoral Assistance (IDEA).  
Available at: <http://www.idea.int/publications/dchs/loader.cfm?csmodule=security/getfile&pageid=16357> [Accessed on 9th October, 2014]
- Latif, M. (2010) PUK and KDP do not believe in Constitution. [Online]. Available at: [http://www.sbeiy.com/ku/inter\\_report\\_detail.aspx?id=4&cat=2&](http://www.sbeiy.com/ku/inter_report_detail.aspx?id=4&cat=2&) [Accessed on 3rd December, 2012]
- Law, D.S. and Versteeg, M. (2013) Sham Constitutions. *California Law Review*, Vol. 101, Issue 4, pp.863–952. Available at: <http://scholarship.law.berkeley.edu/californialawreview/vol101/iss4/1> [Accessed on 12th February, 2014]



- Lederman, D., Loayza, N. and Reis Soares, R. (2001) Accountability and Corruption: Political Institutions Matter. Policy Research Working Paper 2708. Washington, DC: The World Bank.
- Leezenberg, M. (2005) Iraqi Kurdistan: contours of a post-civil war society. *Third World Quarterly*, Vol. 26, No. 4–5, pp.631–47
- Levi, M. (1988) *Of Rule and Revenue*. California Series on Social Choice and Political Economy. London: University of California Press.
- Levine, R. and Renelt, D. (1992) A Sensitivity Analysis of Cross-Country Growth Regressions. *American Economic Review*, Vol. 82, No. 4, pp.942–63
- Levitsky, S. and Way, L.A. (2002) The Rise of Competitive Authoritarianism. *Journal of Democracy*, Vol. 13, No. 2, pp.51–66
- Lijphart, A. (2002) The Wave of Power-Sharing Democracy. In: Reynolds, A. (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press.
- Lindlof, T.R. (1995) *Qualitative communication research methods*. Thousand Oaks, CA: Sage.
- Lindstedt, C. and Naurin, D. (2005) Transparency and Corruption: The Conditional Significance of a Free Press. QOG Working Paper series 2005:5. QOG Institute, University of Gothenburg. Available at [http://www.qog.pol.gu.se/digitalAssets/1350/1350633\\_2005\\_5-lindstedt\\_aurin.pdf](http://www.qog.pol.gu.se/digitalAssets/1350/1350633_2005_5-lindstedt_aurin.pdf) [Accessed on 2nd November, 2013]
- Linz, J. and Stepan, A. (1996) *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore: The John Hopkins University Press.
- Locke, J. (1690) *Second Treatise on Civil Government* (MacPherson, C.B., ed.). Indianapolis, IN: Hackett.
- Loschky, J. (2012) In Iraqi Kurdistan, Satisfaction with Infrastructure Crumbles. Gallup.com, 7 September 2012. Available at <http://www.gallup.com/poll/157298/iraqi-kurdistan-satisfaction-infrastructure-crumbs.aspx> [Accessed on 13th April, 2014]
- Luciani, G. (ed.) (1990) *The Arab State*. Abingdon: Routledge.
- Madhav, S. (2006) The Right to Information and Public Interest: A Primer. Available at: [http://projects.cgg.gov.in/KPNRC/Documents/Articles/Public Interest.pdf](http://projects.cgg.gov.in/KPNRC/Documents/Articles/Public%20Interest.pdf) [Accessed on 29th November, 2013]
- Madigan, K. (2005) Corruption Restricts Development in Iraqi Kurdistan. Radio Free Europe/Radio Liberty, 29 April 2005. [Online]. Available at: <http://www.rferl.org/content/article/1058690.html> [Accessed on 13th January, 2012]
- Madison, J. (1788) The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments. *Independent Journal*, 6 February 1788, reproduced in *The Federalist*, No. 51. Constitution Society. Available at: <http://www.constitution.org/fed/federa51.htm> [Accessed on 2nd April, 2014]
- Malinova, M. (2012) Is Islam Compatible with Democracy? Al-Jazeera Center for Studies/New Bulgarian University. Conference: The Middle East & North Africa and the Balkans: Challenges of Transformation. Sofia, 13–15 December 2012. Available at: <http://studies.aljazeera.net/ResourceGallery/media/Documents/2013/3/5/201335103758486734Mariana%20Malinova.pdf> [Accessed on 14th August, 2012]

- Mann, M. (1993) *The Sources of Social Power*. Vol.2. The Rise of Classes and Nation-states, 1760–1914. Cambridge: Cambridge University Press.
- Maravall, J.M. and Przeworski, A. (2003) *Democracy and the Rule of Law*. New York: Cambridge University Press.
- Marsh, D. and Furlong, P. (2002) A skin, not a sweater: Ontology and epistemology in political science. In: Marsh, D. and Stoker, G. (eds.) *Theory and Methods in Political Science*. Basingstoke: Palgrave Macmillan.
- Maruste, R. (2007) The Role of the Constitutional Court in Democratic Society. *Juridica International* [University of Tartu Law Review], XIII, pp.8–13  
Available at: <http://www.juridicainternational.eu/?id=12703> [Accessed on 12th November, 2012]
- Masciulli, J. and Knight, W.A. (2009). Conceptions of Global Leadership for Contextually Intelligent, Innovatively Adaptive Political Leaders. In: Masciulli, J., Molchanov, M.A. and Knight, W.A. (eds.) *The Ashgate Research Companion to Political Leadership*. Farnham: Ashgate Publishing Limited.
- Mason, J. (2002) ‘Qualitative Interviews: Asking, Listening and Interpreting’ in T. May (ed.) *Qualitative Research in Action*, London: Sage.
- Masum, F. (2008) Kurdish lawmaker defends corruption in Kurdistan administration. Kurdish Media. [Online]. Available at: <http://www.kurdmedia.com>. [Accessed on 5th December, 2012]
- Mauro, P. (1998) Corruption: Causes, Consequences, and Agenda for Further Research. *Finance and Development*, Vol. 35, No. 1, pp.11–14
- Mawdudi, S.A.A. (1967) *Islamic Way of Life* (tr. Khursheed Ahmad). Delhi: Markazi Maktaba Islami.
- May, T. (2011) *Social Research: Issues, Methods and Process*. 4th edition. Maidenhead: Open University Press/McGraw-Hill Education
- McGarry, J. (2005) Can federalism help to manage ethnic and national diversity? *Federations*, Vol. 5, No. A-1/2005. Available at: <http://www.forumfed.org/libdocs/Federations/V5N1SEen-int-McGarry.pdf> [Accessed on 13th April, 2014]
- McMillan, J. and Zoido, P. (2004) How to Subvert Democracy: Montesinos in Peru. *Journal of Economic Perspectives*, Vol. 18, No. 4, pp.69–92
- Merriam, S.B. (1998) *Qualitative research and case study applications in education*. San Francisco, CA: Jossey-Bass Publishers.
- Mikaelsson, R. (2008) Promoting democracy: Sweden and the democratisation process in Macedonia. Linköping Studies in Arts and Sciences No. 446. Linköping University.
- Minority Rights Group International. Iraq. Available at: <http://www.minorityrights.org/5726/iraq/iraq-overview.html> [Accessed on 21st December, 2014]
- Mintz, Z. (2014) How the Sunni–Shiite Conflict Frames the Current Crisis in Iraq. *International Business Times*, 17 June 2014. Available at: <http://www.ibtimes.com/how-sunni-shiite-conflict-frames-current-crisis-iraq-1603528> [Accessed on 19th October, 2015]

- Monfardini, P. and von Maravić, P. (2012) Combating Corruption through the Audit System? The Transformation of Auditing in International Organizations. IPMN conference on Innovations in Public Management for Combating Corruption; Honolulu, Hawaii, 27–29 June 2012.
- Montes, E. and Vial, T. (2005) The role of Constitution-building process in democratisation. International IDEA. May 2005. Available at <https://anayasa.tbmm.gov.tr/docs/CBP-Chile.pdf> [Accessed on 9th November, 2013]
- Montesquieu (1748) *The Spirit of Laws*. Book XI, Chapter 6. Available at: <http://press-pubs.uchicago.edu/founders/documents/v1ch17s9.html> [Accessed on 12th April, 2014]
- Montinola, G., and Jackman, W. (2002) Sources of Corruption: A cross-country study. *British Journal of Political Science*, Vol. 32, Issue 1, pp.147–70
- Muller, E.N. and Seligson, M.A. (1994) Civic Culture and Democracy: The Question of Causal Relationships. *American Political Science Review*, Vol. 88, No. 3, pp.635–52
- Munro Robb, D. (2010) Political Parties. In: Couto, R.A. (ed.) *Political and Civic Leadership*. Thousand Oaks, CA: SAGE
- Nasr, S.V.R. (1994) Mawdudi and the Jama' ai-i Islami: The Origins, Theory and Practice of Islamic Revivalism. In: Rahnema, A. (ed.) *Pioneers of Islamic Revival*. London: Zed Books.
- Natali, D. (2012) The State of the Kurdish Regional Government in Iraq. An Interview with National Defense Univ.'s Dr. Denise Natali. Musings on Iraq. [Online]. Available at <http://musingsoniraq.blogspot.co.uk/2012/08/the-state-of-kurdish-regional.html> [Accessed on 8th February, 2013]
- Natali, D. (2012) Baghdad and Erbil Clash Over Oil. Al-Monitor, 5 June 2012. [Online]. Available at: <http://www.al-monitor.com/pulse/originals/2012/al-monitor/iraqs-energy-imbroglio.html> [Accessed on 19th November, 2014]
- National Democratic Institute (2013) Iraq Election Watch: KRG Parliamentary Elections. Edition 7. Available at: <https://www.ndi.org/files/NDI-Iraq-Election-Watch-Ed7.pdf> [Accessed on 12th April, 2014]
- National Integrity Action [Jamaica] (2005) Agreement and Declaration on the Code of Political Conduct.
- Nations Encyclopedia: Iraq. Available at: <http://www.nationsencyclopedia.com/economies/Asia-and-the-Pacific/Iraq.html#ixzz3VnSKVeWh> [Accessed on 23rd March, 2014]
- NATO (2006) Monitoring G8 Commitments to developing countries. Draft Special Report to the NATO Parliamentary Assembly.
- Nawshirwan, M. (2009) Gorran Movement Manifesto for July 2009 election. [Online]. Available at: [www.gorran.net](http://www.gorran.net) [Accessed on 13th December, 2012]
- Neo, B. S. and Chen, G. (2007) *Dynamic Governance: Embedding Culture, Capabilities and Change in Singapore*. Hackensack, NJ: World Scientific Publishing Co. Pte. Ltd.
- Nilsson, K. (2008) Bad Wealth – Retesting the Relationship between Natural Resource Abundance and Democracy. QoG Working Paper Series 2008:11. The Quality of Government Institute, Department of Political Science, University of Gothenburg.

- Norris, P. (2006) Democracy or governance? The consequences for domestic peace. Paper for the European Consortium of Political Research Joint Workshops, St Gallen, 12–17 April 2011. Available at: <http://www.hks.harvard.edu/fs/pnorris/Acrobat/ECPR%202011%20Norris%20Democratic%20Governance%20and%20Peace.pdf> [Accessed on 22<sup>nd</sup> May, 2012]
- NRT.TV (2014) Available at: <http://nrttv.com/all-details.aspx?jimare=62123>
- O'Donnell, G. (2004) Why the Rule of Law Matters. *Journal of Democracy*, Vol. 15, No. 4, pp.34–41
- O'Donnell, G. (2007) *Dissonances: Democratic Critiques of Democracy*. Notre Dame, IN: University of Notre Dame Press.
- O'Leary, B., McGarry, J. and Salih, K. (2005) *The Future of Kurdistan in Iraq*. Philadelphia, PA: University of Pennsylvania Press.
- Obadan, M.I. (1998) The State, Leadership, Governance and Economic Development. Presidential Address Delivered at the Annual Conference of the Nigerian Economic Society, Kano. *African Journal of Political Science and International Relations* Vol. 4(6), pp201-208, June 2010. Available at <http://www.academicjournals.org/journal/AJPSIR/article-full-text-pdf/0AAAF4240805> [Accessed on 23th March, 2014]
- Öberg, M. and Melander, E. (2005) The quality of government and civil war. Quality of Government Institute, University of Gothenburg.
- OECD (1997) Final Report of the Ad Hoc Working Group on Participatory Development and Good Governance. Part 2: Lessons from Experience in Selected Areas of Support for Participatory Development and Good Governance. Development Assistance Committee. Paris, OECD. Available at: [www.oecd.org/dataoecd/44/11/1894634.pdf](http://www.oecd.org/dataoecd/44/11/1894634.pdf) [Accessed on 11th September, 2013]
- Office of the United Nations High Commissioner for Human Rights (OHCHR). Basic Principles on the Independence of the Judiciary. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx> [Accessed on 14th March, 2014]
- Ogburn, W.F. (1930). Change, Social. In: *Encyclopaedia of the Social Sciences*. Vol. 3. New York: Macmillan.
- Ogundiya, I.S. (2010) Democracy and good governance: Nigeria's dilemma. *African Journal of Political Science and International Relations*, Vol. 4, No. 6, pp.201–8. Available at: <http://www.academicjournals.org/ajpsir> [Accessed on 12th January, 2013]
- Oil and Gas Law of the Kurdistan Region–Iraq. Law No. 22 (2007). Available at: [http://cabinet.gov.krd/uploads/documents/Kurdistan%20Oil%20and%20Gas%20Law%20English\\_\\_2007\\_09\\_06\\_h14m0s42.pdf](http://cabinet.gov.krd/uploads/documents/Kurdistan%20Oil%20and%20Gas%20Law%20English__2007_09_06_h14m0s42.pdf) [Accessed on 7th October, 2014]
- Olaya, J. and Hussmann, K. (2013) Preventing and Combatting Corruption: Good Governance and Constitutional Law in Tunisia. Consolidating the Arab Spring: Constitutional Transition in Egypt and Tunisia. Working Paper No. 6. International IDEA/The Center for Constitutional Transitions at NYU Law. Available at: [http://constitutionaltransitions.org/wp-content/uploads/2013/06/6\\_Olaya\\_Hussmann\\_Anti-Corruption.pdf](http://constitutionaltransitions.org/wp-content/uploads/2013/06/6_Olaya_Hussmann_Anti-Corruption.pdf) [Accessed on 12th December, 2013]

- Oskarsson, S., and Ottosen, E. (2010) Does Oil Still Hinder Democracy? *Journal of Development Studies*, Vol. 46, No. 6, pp.1067–83
- Ottaway, M. (1997) From Political Opening to Democratisation? In: Ottaway, M. (ed.) *Democracy in Africa. The Hard Road Ahead*. Boulder, CO: Lynne Rienner Publishers.
- Pagnamenta, R. (2009) DNO could be London-bound after Kurdish oil row. *The Times*, 30 September 2009. [Online; paywall-protected]. Available at: [http://business.timesonline.co.uk/tol/business/industry\\_sectors/natural\\_resources/article6854382.ece](http://business.timesonline.co.uk/tol/business/industry_sectors/natural_resources/article6854382.ece) [Accessed on 13rd January, 2011]
- Palavicini Corona, G. (2000) The Revolutionary Institutional Party (PRI) as a mean to the “ruling elite” in Mexico. Electronic Publication on Local Economic Development. *CEIDIR* [Centro Electrónico de Impulso al Desarrollo Integral de Regiones y Localidades]. *Review*, No. 1. Mexico City, Mexico. [Online]. Available at <http://perso.wanadoo.es/delocalmx/Politics2009.htm> [Accessed on 4th January, 2012]
- Paldam, M. (1999). The Big Pattern of Corruption. Economics, Culture and the Seesaw Dynamics. University of Aarhus, manuscript.
- Paldam, M. (2002) The cross-country pattern of corruption: economics, culture and the seesaw dynamics. *European Journal of Political Economy*, Vol. 18, No. 2, pp.215–40 Available at: <http://www.sciencedirect.com/science?> [Accessed on 13th January, 2012]
- Parahoo, K. (2006) *Nursing Research, Principles, Process and Issues*. New York: Palgrave Macmillan.
- Pavarala, V. (1996) *Interpreting Corruption. Elite Constructions in India*. Thousand Oaks, CA: SAGE Publications.
- Pellegrini, L. and Gerlagh, R. (2007) Causes of corruption: a survey of cross-country analyses and extended results. *Economics of Governance*, Vol. 9, No. 3, pp.245–63 Available at: <http://www.springerlink.com/content/6014743x057h1338/fulltext.pdf> [Accessed on 9th July, 2010 and 7th December, 2012]
- Christopher, P. (2004) *The Modern State*. Second editions. Routledge is an imprint of the Taylor & Francis Group.
- Persson, A., Rothstein, B. and Teorell, J. (2010) The Failure of Anti-Corruption Policies: A Theoretical Mischaracterization of the Problem. QoG Working Paper 2010:19. The Quality of Governance Institution, Department of Political Science, University of Gothenburg. Available at: [http://www.qog.pol.gu.se/digitalAssets/1350/1350163\\_2010\\_19\\_persson\\_rothstein\\_teorell.pdf](http://www.qog.pol.gu.se/digitalAssets/1350/1350163_2010_19_persson_rothstein_teorell.pdf) [Accessed on 2nd December, 2012]
- Persson, T., Tabellini, G. and Trebbi, F. (2003) Electoral Rules and Corruption. *Journal of the European Economic Association*, Vol. 1, No. 4, pp.958–89
- Pillay, N. (2014) The Rule of Law and the New Egyptian Constitution. *Liverpool Law Review*, Vol. 35, No. 2, pp.135–55
- Pimentel, D. and Anderson, B.D. (2013) Judicial Independence in Post-Conflict Iraq: Establishing the Rule of Law in an Islamic Constitutional Democracy. *George Washington International Law Review*, Vol. 46, No. 1, pp.29–54
- Pipes, D. (1989) *The Long Shadow: Culture and Politics in the Middle East*. New Brunswick, NJ: Transaction Books.

- Pironti, A. (2014) Kurdistan's Health System in a Globalized World. Rudaw News. [Online]. Available at: <http://rudaw.net/english/kurdistan/16022014> [Accessed on 16th December, 2015]
- Powell, L.A. and Lewis, B.A. (2009) The Political Culture of Democracy in Jamaica, 2008: The Impact of Governance. Vanderbilt University/Centre for Leadership & Governance, University of the West Indies, Mona. Available at: <http://www.vanderbilt.edu/lapop/ab2008/jamaica-en.pdf>
- Préfontaine, D.C. and Lee, J. (1998) The Rule of Law and the Independence of the Judiciary. Paper prepared for World Conference on the Universal Declaration of Human Rights, Montreal, 7–9 December 1998. Available at: [http://icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/RuleofLaw\\_0.pdf](http://icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/RuleofLaw_0.pdf) [Accessed on 14th January, 2016]
- Prillaman, W (2003) Crime, Democracy, and Development in Latin America. Policy Papers on the Americas. Volume XIV, Study 6. Available at <http://www.globalinitiative.net/download/general/central-america-caribbean/CSIS%20-%20Crime,%20Democracy,%20and%20Development%20in%20Latin%20America.pdf> [Accessed on 15th May, 2016]
- Provencher, N. (2011) Is Islam Compatible with Democracy; A Critical Reexamination of Existing Theory to Establish Renewed Potential. Paper presented to Georgia Political Science Association Annual Conference. Savannah, Georgia, 11 November 2011. Available at: <http://www.culturaldiplomacy.org/academy/content/pdf/participant-papers/2011-12-cdac/Is-Islam-Compatible-with-Democracy-A-Critical-Reexamination-of-Existing-Theory-to-Establish-Renewed-Potential-Nicholas-Provencher.pdf> [Accessed on 12th October, 2014]
- Punch, K.F. (2014) *Introduction to Social Research: Quantitative and Qualitative Approaches*. 3rd edition. London: SAGE Publications.
- Qadir, K. (2007) Iraqi Kurdistan's Downward Spiral. *Middle East Quarterly*, Vol. 14, No. 3, pp.19–26 [Online]. Available at: [http://www.meforum.org/1703/iraqi-kurdistans-downward-spiral#\\_ftn31](http://www.meforum.org/1703/iraqi-kurdistans-downward-spiral#_ftn31) [Accessed on 13th January, 2012]
- Qadr, R.M. (2007) *For the Sake of a New Kurdistan*. 1st edition. Erbil: Hawler Press.
- Qardaghi, Kawa (2011) The citizens of Kurdistan do not see the transparency and accountability in government performance. Shafaq News. Available at: <http://shafaaq.com/en/politics/1831-kawa-qardaghi-the-citizens-of-kurdistan-do-not-see-the-transparency-and-accountability-in-the-government-performance-.html>. [Accessed on 29th November, 2013]
- Raban, R. (2015) The rationalisation of the policy on: the relation between democracy and the rule of law? Legislation and public policy. Available at <http://www.nyujlpp.org/wp-content/uploads/2015/07/Raban-The-Rationalization-of-Policy-On-the-Relation-Between-Democracy-and-the-Rule-of-Law-18nyujlpp45.pdf> [Accessed on 5th December, 2015]
- Rafiq (2009) Interview with Sbeiy News, 15 December 2009. [Online]. Available at: [http://archive.sbeiy.com/\(X\(1\)S\(ebnp3ehvionlocyt5flbcjnl\)\)/ku/inter\\_report\\_detail.aspx?id=353&cat=2&title=](http://archive.sbeiy.com/(X(1)S(ebnp3ehvionlocyt5flbcjnl))/ku/inter_report_detail.aspx?id=353&cat=2&title=) [Accessed on 5th January, 2013]
- Rath, S. (1984) *Federalism today: Approaches, issues, and trends*. New Delhi: Sterling.

- Rauch, E. and Evans, B. (2000) Bureaucratic Structure and Bureaucratic Performance in Less Developed Countries. *Journal of Public Economics*, Vol. 75, Issue 1, pp.49–71 [Online]. Available at: <http://www.sciencedirect.com/science/article/B6V76-3XVPG5W-3/2/cc4bf41c94f40ad95f544a60f784dcb3> [Accessed on 5th February, 2014]
- Relly, J. E. and Sabharwal, M. (2009) Perceptions of transparency of government policymaking: A cross-national study. *Government Information Quarterly*, Vol. 26, No. 2, pp.148–57
- Reporters Without Borders (2010) Between Freedom and Abuses: The Media Paradox in Iraqi Kurdistan. Mission report. Available at: [http://en.rsf.org/IMG/pdf/rsf\\_rapport\\_kurdistan\\_irakien\\_nov\\_2010\\_gb.pdf](http://en.rsf.org/IMG/pdf/rsf_rapport_kurdistan_irakien_nov_2010_gb.pdf) [Accessed on 6th December, 2013]
- Reuters (2014) Iraq draft budget intensifies Kurd oil export row. Available at: <http://www.reuters.com/article/2014/01/15/iraq-kurds-budget-idUSL5N0KP3NC20140115> [Accessed on 18th October, 2014]
- Ridolfo, K. (2007) Iraq: Kurds Push Ahead with Oil Contracts. Radio Free Europe/Radio Liberty, 12 November 2007. Available at: <http://www.rferl.org/content/article/1079118.html> [Accessed on 17th November, 2014]
- Risse, T. (2004) Transnational Governance and Legitimacy. Paper for Centre for Transatlantic Foreign and Security Policy, Otto Suhr Institute of Political Science, Freie University, Berlin. Available at: [http://userpage.fu-berlin.de/~atasp/texte/tn\\_governance\\_benz.pdf](http://userpage.fu-berlin.de/~atasp/texte/tn_governance_benz.pdf) [Accessed on 18th December, 2012]
- Romano, D. (2010) Iraq Kurdistan: Challenges of autonomy in the wake of US withdrawal. *International Affairs*, Vol. 86, No. 6, pp.1345–59 Available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2346.2010.00947.x/epdf> [Accessed on 14th June, 2012]
- Rose, R. and Shin, D.C. (2001) Democratization backwards: the problem of third-wave democracies. *British Journal of Political Science*, Vol. 31, No. 2, pp.331–54
- Rose-Ackerman, S. (1999) *Corruption and Government: Causes, Consequences, and Reform*. Cambridge: Cambridge University Press.
- Rose-Ackerman, S. (2001) Trust, Honesty and Corruption: Reflection on the State-building Process. *Archives of European Sociology*, Vol. XLII, No. 3, pp.526–70
- Rose-Ackerman, S. (2010a) Corruption: Greed, Culture, and the State. *Yale Law Journal Online*, Vol. 120, pp.125–40 Available at: <http://www.yalelawjournal.org/forum/corruption-greed-culture-and-the-state> [Accessed on 12th January, 2012]
- Rose-Ackerman, S. (2010b) Global Action for Transparency and the Control of Corruption. Paper presented to the 14th International Anti-Corruption Conference, Bangkok, Thailand, 10–13 November 2010. Available at: <http://14iacc.org/wp-content/uploads/SusanRoseAckerman14IACCCentralpaper.pdf> [Accessed on 20th October, 2015]
- Rose-Ackerman, S. (2010c) Regulation and Public Law in Comparative Perspective. Yale Law School Legal Scholarship Repository. Yale Law School. Paper 603. Available at: [http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1593&context=fss\\_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1593&context=fss_papers) [Accessed on 28th October, 2015]

- Rotberg, R. (2004) The failure and collapse of nation states. In: Rotberg, R. (ed.) *When States Fail*. Princeton, NJ: Princeton University Press.
- Rothstein, B. (1998) *Just Institutions Matter: The Moral and Political Logic of the Universal Welfare State*. Cambridge: Cambridge University Press.
- Rothstein, B. (2011) *The Quality of Government: Corruption, Social Trust and Inequality in International Perspective*. Chicago: University of Chicago Press.
- Rothstein, B. (2012) Defining and measuring quality of government. Department of Political Science. University of Gothenburg Available at [http://webcache.googleusercontent.com/search?q=cache:http://iis-db.stanford.edu/docs/623/Rothstein%2526Teorell2012.pdf&gws\\_rd=cr&ei=ZOonV8XtA6jDgAbL3L\\_gBQ](http://webcache.googleusercontent.com/search?q=cache:http://iis-db.stanford.edu/docs/623/Rothstein%2526Teorell2012.pdf&gws_rd=cr&ei=ZOonV8XtA6jDgAbL3L_gBQ) [Accessed on 21th October, 2014]
- Rothstein, B. and Teorell, J. (2008) What Is Quality of Government? A Theory of Impartial Government Institutions. *Governance*, Vol. 21, No. 2, pp.165–90
- Rubin, M. (2011) Will America leave Kurdistan? MESOP. Available at: <http://www.solami.com/iraqsecurity.htm> [Accessed on 3rd February, 2012]
- Rudaw (2014) KRG Oil Revenues Cannot Replace Iraqi Budget, Expert Says. Rudaw News. Available at: <http://rudaw.net/mobile/english/kurdistan/230120142> [Accessed on 28th October, 2015]
- Ryan, M. with Foster, S. (2012) *Unlocking Constitutional and Administrative Law*. 2nd edition. London: Hodder Education.
- Salamon, L.M. (ed.) (2002) *The tools of government: a guide to the new governance*. USA: Oxford University Press.
- Salleh, S.H. and Kar, A. (eds.) (1995) Administrative and Financial Accountability: The ASEAN-SAARC Experience. Proceedings of the ASEAN-SAARC Conference on Administrative and Financial Accountability, Dhaka, Bangladesh, 16–20 January 1994. Kuala Lumpur: Asian and Pacific Development Centre.
- Samanni, M. and Holmberg, S. (2010) Quality of Government Makes People Happy. QoG Working Paper Series 2010:1. The Quality of Government Institute, Department of Political Science, University of Gothenburg. Available at: [http://qog.pol.gu.se/digitalAssets/1350/1350150\\_2010\\_1\\_samanni\\_holmberg.pdf](http://qog.pol.gu.se/digitalAssets/1350/1350150_2010_1_samanni_holmberg.pdf) [Accessed on 5th September, 2012]
- Samuels, K. (2006) Rule of Law Reform in Post-Conflict Countries: Operational Initiatives and Lessons Learnt. Social Development Papers. Paper No. 37. Washington, DC: World Bank.
- Savage, J.D. (2013) *Reconstructing Iraq's Budgetary Institutions: Coalition State Building after Saddam*. Cambridge: Cambridge University Press.
- Sayer, A. 1984. *Method in social science*. London: Routledge.
- Schedler, A. (2002) Elections Without Democracy: The Menu of Manipulation. *Journal of Democracy*, Vol. 13, No. 2, pp.36–50 Available at: [http://web.pdx.edu/~mev/pdf/Authoritarian\\_Schedler.pdf](http://web.pdx.edu/~mev/pdf/Authoritarian_Schedler.pdf) [Accessed on 9th October, 2012]
- Schmitt, C. (1983) *The Crisis of Parliamentary Democracy* (tr. Ellen Kennedy). Cambridge, MA: MIT Press.



- Schumpeter, J. (1947) *Capitalism, Socialism and Democracy*. London: Routledge.
- Seufert, G. (2015) The Return of the Kurdish Question: On the Situation of the Kurds in Iraq, Syria and Turkey. SWP Comments 2015/C 38. Stiftung Wissenschaft und Politik/German Institute for International and Security Affairs. Available at: [https://www.swp-berlin.org/fileadmin/contents/products/comments/2015C38\\_srt.pdf](https://www.swp-berlin.org/fileadmin/contents/products/comments/2015C38_srt.pdf) [Accessed on 12th September, 2015]
- Sidiq, A. (2011) General Project for Combating Corruption in Kurdistan. *Gulan* magazine. [Online]. Available at: [http://www.gulan-media.com/to\\_print.php?id=615&section=7](http://www.gulan-media.com/to_print.php?id=615&section=7) [Accessed on 19th February, 2011].
- Silverman, D. (2010) *Doing Qualitative Research*. 3rd edition. London: SAGE Publications Ltd.
- Silverman, D. (2013) *Doing Qualitative Research*. 4th edition. London: SAGE Publications Ltd.
- Sinclair, C. and Kajjo, S. (2011) The evolution of Kurdish politics in Syria. Middle East Research and Information Project. Available at: <http://www.merip.org/mero/mero083111> [Accessed on 26th September, 2012]
- Singapore Ministry of Education (2012) Human Resource Group. Available at: <http://www.moe.gov.sg/about/orgstructure/hr-group/hscd> [Accessed on 18th December, 2014]
- Sokoloff, K. and Engerman, S. (2000) Institutions, Factor Endowments, and Paths of Development in the New World. *Journal of Economic Perspectives*, Vol. 14, No. 3, pp.217–32
- Spector, B. (2005) *Fighting Corruption in Developing Countries: Strategies and Analysis*. Bloomfield, CT: Kumarian Press.
- Stahlschmidt, M. and Johannisson, E. (2011) Gorran: Jemmy for pluralism in Iraqi Kurdistan. [Online.] Available at: <http://diggy.ruc.dk/bitstream/1800/7264/1/Gorran%2Babstract.pdf> [Accessed on 12th May, 2012]
- Stapenhurst, R. and Kpundeh, S.J. (1999) Curbing Corruption: Toward a Model for Building National Integrity. EDI Development Studies, World Bank Institute. [Online]. Available at: <http://publications.worldbank.org/> [Accessed on 21st April, 2012]
- Stark, D. and Bruszt, L. (1988) *Postsocialist Pathways: Transforming politics and property in East Central Europe*. Cambridge: Cambridge University Press.
- Stepan, A. (1999) Federalism and Democracy: Beyond the U.S. Model. *Journal of Democracy*, Vol. 10, No. 4, pp.19–34
- Stilt, K. (n.d.) The Iraqi Constitution: A Closer Reading. NPR [National Public Radio]. Available at: [http://www.npr.org/news/specials/iraq\\_constitution/](http://www.npr.org/news/specials/iraq_constitution/) [Accessed on 7th February, 2014]
- Stulz, R.M. and Williamson, R. (2003) Culture, openness and finance. *Journal of Financial Economics*, Vol. 70, No. 3, pp.313–49
- Sung, H.-E. (2004) Democracy and Political Corruption: A cross-national comparison. *Crime, Law and Social Change*, Vol. 41, Issue 2, pp.179–93

- Taha, A. (2013) Zana Hama Salih, the head of the District of Sulaimaniyah, strangled himself! PUK Media, February 2013. Available at: [http://www.puk-uk.org/news/index.php?option=com\\_content&view=article&id=420&catid=45&Itemid=181](http://www.puk-uk.org/news/index.php?option=com_content&view=article&id=420&catid=45&Itemid=181) [Accessed on 19th May, 2014]
- Taha, T. (2013) CHRA TV. [Online]. Available at: <http://chra.tv/news/index.php/component/content/archive> [Accessed on 1st February, 2013]
- Talabani (2006) Interview with Jalal Talabani, former President of Iraq. *Al-Sabah* Newspaper, 16 January 2006. Available at: <http://www.alsabaah.iq/> [Accessed on 3rd November, 2012]
- Tanzi, V. (1998) Corruption Around the World: Causes, Consequences, Scope, and Cures. *IMF Staff Papers*, Vol. 45, No. 4, pp.559–94 [Online]. Available at: <http://www.imf.org/external/pubs/ft/staffp/1998/12-98/pdf/tanzi.pdf> [Accessed on 21st April, 2012]
- Taylor, P. (1988) Technocratic Optimism, H.T. Odum, and the Partial Transformation of Ecological Metaphor after World War II *Journal of the History of Biology*, Vol. 21, No. 2, June 1988.
- Teorell, J. and Svensson, T. (2007) *Att Fråga och att Svara: Samhällsvetenskaplig Metod*. Stockholm: Liber.
- Thomas, M.A. (2009) What do the Worldwide Governance Indicators Measure? *European Journal of Development Research*, Vol. 22, Issue 1, pp.31–54
- Thurmond, A. V. (2001). The Point of Triangulation. *Journal of Nursing Scholarship*, 33(3), pp253-258
- Transparency International (1995-2015) Corruption Perceptions Index. Available at: <http://www.transparency.org/research/cpi/overview> [Accessed on between May 2013 and April 2016]
- Treisman, D. (2000). The causes of corruption: A cross-national study. *Journal of Public Economics*, Vol. 76, No. 3, pp.399–457
- U4 (2015) Kurdistan Region of Iraq: overview of corruption and anti-corruption. Expert Answer Anti-Corruption Resource Centre. Available at: <http://www.u4.no/publications/kurdistan-region-of-iraq-overview-of-corruption-and-anti-corruption/downloadasset/3868> [Accessed on 9th January, 2016]
- UK All-Party Parliamentary Group on the Kurdistan Region in Iraq (2011) Kurdistan 20 years after the Uprising. A report of the visit of the all Party Parliamentary Group on the Kurdistan region in Iraq to the region in January 2011. Available at: [http://cabinet.gov.krd/uploads/documents/Report\\_UK\\_all\\_party\\_parliamentary\\_group\\_Kurdistan\\_20\\_years\\_after\\_the\\_Uprising\\_\\_2011\\_03\\_10\\_h15m28s57.pdf](http://cabinet.gov.krd/uploads/documents/Report_UK_all_party_parliamentary_group_Kurdistan_20_years_after_the_Uprising__2011_03_10_h15m28s57.pdf) [Accessed on 18th March, 2015]
- UK Home Office (2009) Country of Origin Information Report: Kurdistan Regional Government Area of Iraq. Available at: <http://www.refworld.org/docid/4ab399c10.html> [Accessed 14th January, 2016]
- UK Home Office (2011) Country of Origin Information Report: Iraq. London: HM Government. Available at: <http://www.refworld.org/docid/4d9b106e2.html> [Accessed on 1st February, 2014]

UK Home Office (2012) Country Information and Guidance reports: Iraq. Available at: <https://www.gov.uk/government/publications/iraq-country-information-and-guidance> [Accessed on 1st February, 2014]

UK Home Office (2014) Country Information and Guidance: The security situation in the “contested” areas of Iraq. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/347269/CIG\\_Iraq\\_security\\_situation\\_v2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347269/CIG_Iraq_security_situation_v2_0.pdf) [Accessed on 12th September, 2014]

UK Ministry of Defence (2009) Iraq: No Fly Zones. Available at: <http://www.iraqinquiry.org.uk/media/38010/mod-no-fly-zone-r1.pdf> [Accessed on 3rd April, 2012]

UN (2009) World Population Prospects: the 2008 Revision. Population Division, Department of Economic and Social Affairs. New York: United Nations. Available at [http://www.un.org/esa/population/publications/wpp2008/wpp2008\\_highlights.pdf](http://www.un.org/esa/population/publications/wpp2008/wpp2008_highlights.pdf) [Accessed on 12th January, 2015]

UN Expert Group Meeting (2012) Preventing Corruption in Public Administration: Citizen Engagement for Improved Transparency and Accountability. Report of the Expert Group Meeting 25–28 June 2012, New York. Available at: <http://workspace.unpan.org/sites/Internet/Documents/Preventing%20Corruption%20in%20Public%20Administration%20on%20Citizen%20Engagement%20for%20Improved%20Transparency%20and%20Accountability.doc.pdf> [Accessed on 12th September, 2014]

UN General Assembly (2006) Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. A/61/338

Available at: [http://www.who.int/medicines/areas/human\\_rights/A61\\_338.pdf](http://www.who.int/medicines/areas/human_rights/A61_338.pdf) [Accessed on 3rd February, 2012]

UNDP (2015) Meritocracy for Public Service Excellence: Global Centre for Public Service Excellence. Available at: <http://www.undp.org/content/dam/undp/library/capacity-development/English/Singapore%20Centre/Meritocracy-PSE.pdf> [Accessed on 23rd September, 2015]

UNODC (2013) UN study underlines corruption and integrity challenges among the public sector in Iraq. Press release, 21 June 2013. Available at: <https://www.unodc.org/unodc/en/frontpage/2013/June/un-study-underlines-corruption-and-integrity-challenges-among-the-public-sector-in-iraq.html> [Accessed on 6th December, 2013]

UNPO (2014) Iraqi Kurdistan: Row Over Oil Exports Escalate. Available at: <http://www.unpo.org/article/16802#sthash.cpjURL6t.dpuf> [Accessed on 12th January, 2014]

UNPO (n.d.) Election Observation Mission (EOM) report on KRG elections 2009 and 2013. Available at: <http://www.unpo.org/> [Accessed on 22nd January, 2014]

US Department of State (2008a) Introduction to Country Reports on Human Rights Practices for 2007. Available at: <http://m.state.gov/md100464.htm> [Accessed on 18th February, 2014]

- US Department of State (2008b) 2007 Country Reports on Human Rights Practices: Iraq. Available at: <http://m.state.gov/md100596.htm> [Accessed on 12th February, 2014]
- US Department of State (2009) 2008 Country Reports on Human Rights Practices: Iraq. Available at: <http://www.state.gov/j/drl/rls/hrrpt/2008/nea/119116.htm> [Accessed on 14th March, 2014]
- US Department of State (2010) 2009 Country Reports on Human Rights Practices: Iraq. Available at: <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136069.htm> [Accessed on 11th March, 2014]
- US Department of State (2012) Country Reports on Human Rights Practices for 2011: Iraq. Available at: <http://www.state.gov/j/drl/rls/hrrpt/2011/nea/186428.htm> [Accessed on 11th March, 2014]
- US Department of State (2013) 2012 Country Reports on Human Rights Practices: Iraq. Available at: <http://www.state.gov/j/drl/rls/hrrpt/2012/nea/204362.htm> [Accessed on 11th March, 2014]
- USAID (2003) Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies. Office of the Democracy and Governance Bureau for Democracy, Conflict, and Humanitarian Assistance. Washington, DC: US Agency for International Development.
- USAID (2008) Kurdistan Region Economic Development Assessment. RTI International for USAID. Available at: [http://www.mop-kr.org/resources/MoP%20Files/PDF%20Files/DCC/Studies/EDA%20Report\\_English.pdf](http://www.mop-kr.org/resources/MoP%20Files/PDF%20Files/DCC/Studies/EDA%20Report_English.pdf) [Accessed on 6th December, 2013]
- Van den Berg, B., van der Heijden, T., Boerwinkel, F., Safar, M., King, E., Petros, S., Verhagen, M. and Ibrahimovic, A. (2010) Democratization in Iraqi Kurdistan: What are the influences on the democratization process in Iraqi Kurdistan? Zeytun Program Iraq 2009/2010. VU University Amsterdam and University of Amsterdam. Available at: <http://www.zeytun.org/sites/default/files/doc/iraq/iraq0910research.pdf> [Accessed on 19th October, 2014]
- Voller, Y. (2012) *From Rebellion to de facto Statehood: International and Transnational Sources of the Transformation of the Kurdish National Liberation Movement in Iraq into the Kurdistan Regional Government*. Ph.D thesis, Department of International Relations, London School of Economics.
- Waisman, G. (2008) Essays on Discrimination and Corruption. Institute for International Economic Studies, Stockholm University. [Online] Available at: [www.iae.csic.es/investigatorsMaterial/a10179092100cv32503.pdf](http://www.iae.csic.es/investigatorsMaterial/a10179092100cv32503.pdf) [Accessed on 22nd November, 2012]
- Walford, G. (1994) Ethics and power in a study of pressure group politics. In: Walford, G. (ed.) *Researching the Powerful in Education*. London: UCL Press.
- Wang, S. (2007) Democracy and State Effectiveness. Department of Government & Public Administration. The Chinese University of Hong Kong. Available at: [www.cuhk.edu.hk/gpa/wang\\_files/DemocracyandState.doc](http://www.cuhk.edu.hk/gpa/wang_files/DemocracyandState.doc) [Accessed on 29th July, 2014]
- Ward, A. and MacDonald, S. (2009) Nascent Federalism and its Limit in Ancient Greece: Herodotus and Thucydides. In: Ward, A. and Ward, L. (eds.) *The Ashgate Research Companion to Federalism*. Farnham: Ashgate Publishing Ltd.

- Warren, C.A.B. (2002) Qualitative Interview. In: Gubrium, J.F. and Holstein, J.A. (eds.) *Handbook of Interview Research: Context and Method*. Thousand Oaks, CA: SAGE.
- Weber, M. (1946) Politics as a Vocation. In Gerth, H.H. and Wright Mills, C. (eds.) *From Max Weber: Essays in Sociology*. Oxford: Oxford University Press.
- Wei, S.-J. (2000) How Taxing Is Corruption on International Investors? *The Review of Economics and Statistics*, Vol. LXXXII, No.1, pp.1–11
- WHO (2010) Health Systems Financing: The Path to Universal Coverage. Geneva: World Health Organization. Available at: [http://apps.who.int/iris/bitstream/10665/44371/1/9789241564021\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/44371/1/9789241564021_eng.pdf) [Accessed on 4th November, 2014]
- Winkler, B. (2000) Which Kind of Transparency? On the Need for Clarity in Monetary Policy-making. European Central Bank Working Paper Series, No. 26. [Online]. Available at: <http://publications.worldbank.org/> [Accessed on 21st April, 2012]
- World Bank (1992) Governance and Development. Washington, DC: World Bank. Available at: <http://documents.worldbank.org/curated/en/1992/04/440582/governance-development> [Accessed on 3rd February, 2012]
- World Bank (1997) Helping Countries Combat Corruption: The Role of the World Bank. Washington, DC: World Bank.
- World Bank (2003) Legal and Judicial Reform: Strategic Directions. Washington, DC: World Bank. Available at: [http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2003/10/24/000160016\\_20031024092948/Rendered/PDF/269160Legal0101e0also0250780SCODE09.pdf](http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2003/10/24/000160016_20031024092948/Rendered/PDF/269160Legal0101e0also0250780SCODE09.pdf) [Accessed on 13th May, 2014]
- World Bank (2004) Mainstreaming Anti-Corruption Activities in World Bank Assistance: A Review of Progress Since 1997. Available at: [http://ieg.worldbank.org/Data/reports/anti\\_corruption.pdf](http://ieg.worldbank.org/Data/reports/anti_corruption.pdf) [Accessed on 20th February, 2014]
- World Bank (2012) Worldwide Governance Indicators for 2010. WB Development Research Group/World Bank Institute. <http://info.worldbank.org/governance/wgi/index.aspx#home>
- World Bank (2014) The World Bank, Kurdistan Regional Government Partner to Boost Socio-Economic Development. Press release, 13 November 2014. Available at: <http://www.worldbank.org/en/news/press-release/2014/11/13/the-world-bank-kurdistan-regional-government-partner-to-boost-socio-economic-development> [Accessed on 12th December, 2014]
- World Bank Institute (2003) The Role of Non-State Actors in Improving Governance in Nigeria. CD-ROM.
- Wright, J. (2008) Do Authoritarian Institutions Constrain? How Legislatures Affect Economic Growth and Investment. *American Journal of Political Science*, Vol. 52, No. 2, pp.322–43
- Wu, X., Ramesh, M., Howlett, M. and Fritzen, S. (2010) *The Public Policy Primer: Managing the Policy Process*. Routledge.
- Yin, R.K. (2009) *Case Study Research: Design and Methods*. 4th edition. Thousand Oaks, CA: SAGE Publications Inc.

- Younos, F. (2008) *Democratization vs Islamisation*. New York: Author House.
- Zebari, A.H. (2013a) Iraqi Kurds Endure Seven Years of Waiting for New Constitution. Iraq Pulse (Al-Monitor), 22 January 2013. Available at: <http://www.al-monitor.com/pulse/originals/2013/01/iraqi-kurdistan-constitution.html> [Accessed on 12th October, 2013]
- Zebari, A.H. (2013b) Iraqi Kurdistan Region Slammed for Violating Press Freedoms. Iraq Pulse (Al-Monitor), 18 February 2013. Available at: <http://www.al-monitor.com/pulse/originals/2013/02/press-freedom-threatened-kurdistan.html#> [Accessed on 12th October, 2013]
- Zikmund, W.G. (2000) *Business research methods*. 6th edition. Fort Worth, TX: The Dryden Press.